SOUTHWE[illegible]AL
[illegible]LY

Vol. XIII [illegible] 1932 [illegible]

CONTENTS

PUBLISHED QUARTERLY

THE SOUTHWE[illegible]

"Entered as second-[illegible]
Austin, [illegible]

THE
SOUTHWESTERN SOCIAL SCIENCE
QUARTERLY

The editors disclaim responsibility for views expressed by contributors to THE QUARTERLY

Vol. XIII SEPTEMBER, 1932 No. 2

THE TEXAS DIRECT PRIMARY SYSTEM

BY O. DOUGLAS WEEKS
The University of Texas

I. INTRODUCTION

Texas is normally a one-party state. Except for the gubernatorial race of 1924 and the presidential election of 1928, general elections have been almost invariably mere formalities. Thus, aspirants to state, district, and county offices who win the nomination in the primaries of the dominant Democratic party are, with rare exceptions, assured of election. The Democratic party is, indeed, not a party in the true sense of the term, at least for state and local purposes, but is rather a state-within-a-state. The voter who does not participate in its primaries and precinct conventions is a voter only in name, for he deprives himself of any share in the choice of public officials. The structure and operation of the primary system are, therefore, vital matters to every Texan. Moreover, recent primary elections have revived interest in the system and have given rise to some new problems in its operation. Inasmuch as there is no easily available summary of its main features, it is not inappropriate that one should be attempted, particularly at the present time.[1]

Until 1905, party nominations for state and local offices in Texas were made by party conventions, except in those counties where the "Crawford County System," or direct primary, had been adopted by party rule for nominating candidates to local

[1]This article is written with a very practical purpose in view, namely, to provide for students of government a summary of the main features of the Texas primary system and to consider certain problems which have developed in connection with it in recent years. For the collection of a part of the material used, the writer is indebted to his former student at The University of Texas, Mr. August Spain.

offices and to instruct delegates to party conventions.[2] This organization and procedure remained entirely unregulated by law until 1895, when a statute was enacted designed to prevent corrupt practices in connection with the holding of local primaries.[3] This law was amended and elaborated in 1903, but the state convention still retained its full powers, and the use of conventions and direct primaries for local purposes remained optional.[4]

In 1905, however, these enactments were repealed, and a comprehensive direct primary law was passed, which has provided the foundation for all later legislation. It established the direct primary as mandatory for all nominations to state, district, and county offices in the case of all parties "that cast 100,000 votes or more in the last general election," which meant in effect only the Democratic party.[5] The whole nominating process was regulated in detail, one feature of which must be noted, namely, that relative to the vote necessary to win a nomination. It was provided that, in case any candidate for a state or district office failed to receive a majority of the votes cast for that office, the state or district conventions should drop the lowest candidate in successive ballots and distribute his votes among the remaining candidates in proportion to their strength until one should receive a majority.[6] This complicated procedure inspired widespread complaint, with the result that in 1907 the use of the conventions for apportioning the votes received in the primary elections was abolished, and a simple plurality rule was adopted for all primary

---

[2]See a series of 15 articles by Tom Finty, Jr., dealing with the history and character of the direct primary in Texas in the *Dallas Morning News*, beginning November 19, 1922. Also, Garner, W. F., *The Primaries in Texas*, unpublished M.A. thesis, The University of Texas, 1920.

[3]*General Laws of Texas*, 24th Legislature, 1895, ch. 34.

[4]*General Laws of Texas*, 28th Legislature, 1903, ch. 101. Sec. 82–107. See also rules adopted by the Democratic State Executive Committee in 1904 in pursuance of this law, *Texas Almanac* (Galveston, Texas, 1904), pp. 34–38.

[5]*General Laws of Texas*, 29th Legislature, First Called Session, 1905, ch. 11.

[6]*Idem.* When a state or district candidate received the majority of votes cast in a county for his office he was to have the entire vote of the delegation from that county in the state or district convention. Where no candidate received such a majority, the candidates for the office, after the elimination of the lowest candidate in each successive ballot in the appropriate convention, were to "have prorated among them the convention vote of each county in proportion to the vote cast for each candidate in the primary election in such county." Second, or run-off, primaries between the two highest candidates in any race in the first primary were permissible for local nominations if the highest failed to receive a majority.

nominations,[7] the latter rule remaining in force until 1913. In that year, an absolute majority requirement was adopted for candidates for the United States Senate, with the provision that, if no candidate received such a majority in the initial primary, a second or run-off primary was to be subsequently held in which only the two highest in the first primary were to be the contestants.[8] Finally in 1918, this rule was made compulsory for all state and district races and optional in county contests.[9]

Meanwhile other changes were being made in the law, and since 1918 some important amendments have been enacted. In 1907, the present party test was adopted.[10] A preferential presidential primary law was passed in 1913.[11] It provided for a direct vote on candidates for the nomination for President, Vice-President, presidential electors, and for the election of delegates to the national convention of the party. The Supreme Court of Texas, however, declared it unconstitutional on the ground that it required the expenditure of public money for what the court refused to consider a public purpose.[12] Another provision, enacted in 1919, permitted women to participate in primaries, although they had not as yet acquired the same privilege in the general election.[13] Its constitutionality was upheld on the theory that the suffrage qualifications set forth in the Constitution of Texas applied only to general elections.[14] Subsequently, two additional amendments of note to the primary law were adopted, namely, the so-called "White Primary" provision of 1923,[15] which was invalidated by the Supreme Court of the United States in 1927,[16] and a provision enacted in lieu thereof, which permitted the state executive committees of political parties to prescribe rules of

---

[7]*General and Special Laws of Texas*, 30th Legislature, 1907, ch. 166.

[8]*General and Special Laws of Texas*, 33rd Legislature, First Called Session, 1913, ch. 39.

[9]*General and Special Laws of Texas*, 35th Legislature, Fourth Called Session, 1918, ch. 90.

[10]*General and Special Laws of Texas*, 30th Legislature, 1907, ch. 166.

[11]*General and Special Laws of Texas*, 32nd Legislature, Regular Session, 1913, ch. 46.

[12]*Waples v. Marrast*, 184 S.W. 180 (1916).

[13]*General and Special Laws of Texas*, 35th Legislature, Fourth Called Session, ch. 34.

[14]*Koy v. Schneider*, 218 S.W. 479 (1920).

[15]*Acts*, 39th Legislature, Second Called Session, 1923, p. 74.

[16]*Nixon v. Herndon*, 273 U.S. 536 (1927).

party membership.[17] The power thus granted was likewise invalidated by the same court insofar as it was used to bar negroes from party primaries.[18]

II. General Features of the System

The present primary law defines a party primary as "an election held by the members of an organized political party for the purpose of nominating the candidates of such party to be voted for at a general or special election, or to nominate the county executive officers of a party."[19] Primaries are made mandatory for state, district, and county offices in the case of the party that cast 100,000 votes at the last general election. They are optional in the case of parties "whose nominees for Governor in the preceding general election received as many as 10,000 and less than 100,000 votes," the convention system being the alternative.[20] Parties with state organizations, which polled less than 10,000 votes, are not provided for.[21] Provision is made, however, for the small party without state organization, which may use either the direct primary or the convention system for county and precinct nominations.[22] The names of non-partisan and independent candidates may be placed in a separate column on the general election ballot by petition.[23] Either the primary or convention system is permissible for town and city elections.[24]

The date fixed for holding the first primary election for state, district, and county purposes is the fourth Saturday in July in even numbered years. For state and district offices, an absolute majority of the total vote cast for an office is necessary to nominate. For county offices, a mere plurality in the first primary is

---

[17] *Acts*, 40th Legislature, First Called Session, 1927, p. 193.

[18] *Nixon v. Condon*, 52 S. Ct. 485 (1932).

[19] *Texas Election Laws*, 1928, Art. 3100.

[20] *Ibid.* Arts. 3101, 3154, 3155. The Republican party fits the latter description.

[21] This fact led to an effort in 1920 through court action to prevent nominations of such a party from going on the official general election ballot. The court held that if parties not regulated by statute were not to be permitted to make nominations, no new parties could be organized, whereas Article 3166 of the law contemplates the organization of new parties. *Morris v. Mims*, 224 S.W. 587 (1920). The Socialist party would fit this description.

[22] *Texas Election Laws*, 1928, Art. 3163. An example of this type of party is the Good Government party of Hidalgo County.

[23] *Ibid.*, Art. 3159.

[24] *Ibid.*, Art. 3164.

sufficient to nominate unless the county executive committee of the party decides to employ a run-off election.[25] In the case of the former offices, a second or run-off primary, to be held on the fourth Saturday in August, is compulsory for all offices for which no aspirants received a majority in the first primary.[26] This second primary is conducted under the same regulations applicable to the first one. In every case, only the two highest in the first primary are eligible as contestants.[27]

There are usually several aspirants in the first primary for each of the more important state offices. Not infrequently as many as six or more persons will enter the governor's race. No more than two or three in that race, however, are ordinarily able to win a considerable vote, or one that is state-wide in distribution. Sometimes, even one who polls a large vote, may secure it almost entirely in a particular section of the state. The two or three most important candidates will receive the bulk of the vote, but the lesser ones will attract enough support to prevent any competitor receiving the necessary absolute majority, thus making the second primary inevitable for this office. It often happens in the case of other state-wide races, however, that one candidate in the first primary will receive an absolute majority over several opponents. An interesting feature in regard to the governor's race is that the highest man in the first primary may find himself eliminated in the run-off; the second man occasionally picking up most of the votes of the lesser candidates in the initial election.

Needless to say, the voters' interest is almost invariably concentrated on these two primary elections of the Democratic party, which are normally the only primary elections held in the state, and which are, in effect, the state, district, and county elections. The fact that Republican presidential electors were chosen in 1928 had little or no effect on the importance of the Democratic party in internal politics. The only campaigning, therefore, to which the state is usually subjected comes in connection with the Democratic primaries, and it is largely taken up with personalities.

---

[25] *Ibid.*, Art. 3106, *Bickley v. Lands*, 288 S.W. 514 (1927).

[26] The run-off primary has been condemned by many as expensive and for other reasons. The preferential primary has been the subject of several bills recently introduced, but not seriously considered. See Finty, *Dallas Morning News*, Nov. 29, 1922.

[27] *Texas Election Laws*, 1928, Art. 3102. Votes cast for an ineligible candidate are valid and must be counted in the total. *Allen v. Fisher*, 9 S.W. (2nd) 731 (1928).

Even the factions, which are inevitable in a one-party state, are built more upon persons than upon issues. The hold of leaders under the primary system is, however, usually short-lived. Publicity and "lucky breaks" count for much in bringing figures rapidly to the center of the stage, but they fall back into the political limbo with equal rapidity. It has been contended with some truth that the primary has brought forth no leaders to compare in ability and prolonged influence in the party and the state with Coke, Hubbard, Roberts, Ireland, Ross, Hogg, Culberson, Sayers, and Lanham. In the later years, James E. Ferguson, perhaps, stands almost alone as having been able to maintain a continuous hold on a widespread block of voters.

All this, of course, means a lack of party cohesion and stability, which, coupled with the high premium placed upon publicity in primary campaigns and the uncertainty of the outcome of the second primary, destroys in large measure anything like party responsibility. A recent bill, introduced in the State Senate, is noteworthy, because it sought to eliminate the second primary for state-wide nominations and to revive the vitality of the state convention as a factor in the nominating process. This bill retained the present first primary for district and county purposes and for electing delegates to the state convention. The second primary was also retained as mandatory for district races where no majority is attained in the first primary and as optional for county and precinct races. Nominations for state-wide elective offices, however, were to be made at a primary to be held simultaneously with the local run-off primaries, and were to be confined to two candidates for each office, who were to have been previously nominated for the primary race by the state convention. In case any person could muster up as many as three-fourths of the convention votes, his name alone was to appear on the ballot as the nominee of the party for the particular office for which he was named. This would have amounted, of course, to nomination by the convention in such cases. This bill was, however, allowed to die on the calendar.[28]

To return to the formal features of the law, it is provided that no political party may hold a primary election at a place within 100 yards of the primary or convention of another party.[29] The

---

[28]S.B. 211, *Senate Journal*, Regular Session, 42nd Legislature, 1931, pp. 156, 947.

[29]*Texas Election Laws*, 1928, Art. 3103.

requirements for voting are the same as those provided for the general election[30] with the addition of a statutory pledge or test and such other qualifications as the state party convention or the executive committee may set up, provided voters may not be disqualified because of past political views or past affiliation with another party or no party. These matters concerning party membership will be treated at length anon.

The primary election officials in each voting precinct consist of a presiding judge, appointed by the county executive committee of the party, an associate judge, chosen by the presiding judge, and either two or four clerks, likewise chosen by the presiding judge. Two supervisors may be chosen by one-fourth of the candidates.[31]

The ballot, printed by the county executive committee at the expense of the candidates, is an "official ballot" on which the party name and test must appear above the names of the candidates, which are grouped by offices in the order determined by lot by the county executive committee. The voter, upon entering the polling place, presents his poll tax receipt or exemption certificate, which is stamped as "voted" with the date, or he may make affidavit that he possesses one or the other, provided his name is listed with the qualified voters. He then receives his ballot after his number is written, in the order of those presenting themselves to vote, on the back of the ballot and also beside his name on the poll list. Sufficient voting booths are supposed to be provided, but they are not always adequate. The ballots are marked by scratching off all names for which the voter does not wish to vote. Provision is made for counting ballots already voted simultaneously with the polling.[32]

---

[30]General suffrage requirements: 21 years of age; U. S. citizenship; one year's residence within the state and six months within the county or district; sanity, not receiving county support as a pauper, and not under conviction for felony; payment of annual poll tax of $1.75, unless 60 years of age or disabled, when an exemption certificate must be secured if voter resides in a city of 10,000 or more; not a U. S. soldier, marine, or seaman; may vote absentee ballot as in the general election. *Ibid.*, ch. V.

[31]*Ibid.*, Art. 3104, 3105.

[32]*Ibid.*, Art. 3109, 3110. Serious defects exist in the process prescribed for voting. Poll taxes must be paid by aliens as well as citizens, although the former are not legally permitted to vote. Poll tax receipts are sometimes secured illegally. Poll tax exemption certificates are too easily secured. Moreover, the ballot, for reasons stated above, is not strictly a secret ballot. Finty, *Dallas Morning News*, Nov. 19, 22, 29, 1922. Investigations have

It has been seen that the administration of the primary election, so far as the polling is concerned, is left in the hands of party officials. In addition to appointing the presiding judge in each precinct, the county executive committee of the party makes, sometimes through a primary sub-committee, all the arrangements for the primary election and is the agency which collects the funds for defraying most of the expense of holding it. This committee consists of a chairman, elected in the preceding primary from the county at large and the party precinct chairmen, who are elected by the party voters in each precinct. The chairman of the county committee receives requests in writing to go on the ballot, signed and acknowledged by the person desiring the nomination or by 25 qualified voters, which requests he certifies to the committee. The committee estimates and apportions the expense of the primary among the candidates;[33] it determines by lot the order in which the names of the candidates for a particular office shall appear on the ballot; and it prints the official ballot, the names of state and district candidates being certified to it by the state executive committee of the party and the district chairmen, respectively. The county committee furnishes all supplies for each polling place, including official ballots, poll tax lists, and other equipment. The chairman receives the returns of the election from the precincts, and the committee canvasses the votes and declares the results, which the chairman certifies to the county clerk in the case of county and precinct offices, and to the state and district party committee chairmen in the case of state and district races.[34]

Moreover, the chairman of each county executive committee is "ex-officio a member of the executive committee of all districts of which his county is a part." Such committees select their own chairmen and are concerned mainly with canvassing votes for district candidates.[35] The state executive committee consists of a chairman, elected by the state convention, and one member from

---

revealed interesting information as to certain counties. See: *Glasscock v. Parr*, Supplement to the Senate Journal, Regular Session, 36th Legislature, 1919. See also *San Antonio Express*, Sept. 1, 2, 3, 1932, for alleged wholesale fraud in allowing unqualified persons to vote.

[33]The chief burden of expense rests upon the candidates for precinct and county offices. District candidates contribute $1.00 to each county executive committee in the district; candidates for state-wide office $100.00 to the state executive committee. *Texas Election Laws*, 1928, Art. 3108, 3116.

[34]*Ibid.*, Art. 3104, 3108, 3109, 3111, 3127, 3146, 3148, 3150.

[35]*Ibid.*, Art. 3118, 3135.

each of the thirty-one state senatorial districts. The latter are elected by the state convention upon nomination in each case by the delegation from the respective district. The functions of this committee are: to receive requests to go on the primary ballot from all aspirants to state offices; to certify the names of these candidates to all chairmen of county executive committees; to receive $100.00 from each candidate for all offices filled by a state-wide vote, the proceeds to be used in helping to defray the expenses of holding the primary; to canvass the returns of the first primary in state contests in order to certify the two highest candidates for each run-off race; and to canvass the returns of the second primary which it certifies to the State Convention.[36]

In addition to this party executive organization prescribed by law, the use of the convention system is required as an adjunct to the operation of the primary. The law provides that on the first primary election day the party voters in each precinct, either in precinct conventions or as the county executive committee directs, shall choose one delegate for each 25 votes cast in the last election for governor to represent the precinct at the county convention, which is held on the Saturday after the first primary election. It is required that the latter convention, in turn, "shall elect one delegate to the State and several district conventions for each three hundred votes, or major fraction thereof, cast for the party's candidate for governor in such county at the last preceding general election . . . " The district conventions thus chosen meet ten days after the run-off primary to canvass the returns of district races in that primary and to certify such returns to the Secretary of State, who, in turn, certifies the names of the nominees to the county clerks to be printed on the general election ballots. Finally, the state convention meets after the second primary, on the Tuesday after the third Monday after the fourth Saturday in August, to perform the same function in regard to state-wide candidacies, to elect the state executive committee, to adopt a party platform comprised of policies

---

[36] *Ibid.*, Art. 3111, 3116, 3136, 3137, 3139. The Courts of Civil Appeals or the Supreme Court, if delay would be injurious, have original jurisdiction to issue a mandamus or other compulsory process to compel party executive officials to perform a statutory duty. *General Laws of Texas*, 41st Legislature, 4th and 5th Called Sessions, 1930, ch. 4; *Love v. Wilcox*, 28 S.W. (2nd) 515 (1930); *Austin American*, Sept. 8, 1932.

approved in a referendum of the voters in the preceding primary, and to adopt resolutions governing party administration.[37]

These conventions, however, must be carefully distinguished from another and separate set of conventions which is called into being only in presidential election years for the sole purpose of naming delegates to the national convention and to nominate presidential electors. They are provided for in the primary law, but they have little connection with the state primary elections or with the conventions described above. On the first Saturday in May of presidential election years, the party voters of each precinct assemble in precinct primary conventions (primary caucuses) to elect and instruct delegates to county conventions, which meet on the first Tuesday after the first Saturday in May to elect and instruct delegates to the state convention. The state convention is held on the fourth Tuesday in May. Its chief function is to choose and instruct the entire delegation of the state to the national convention. These conventions are not closely regulated by the law. Even the apportionment of representation is left up to the party authorities.[38]

Returning to the primary elections, two further features must be described: first, the legal provisions limiting campaign expenditures, and second, the provisions governing contested primary nominations.

The primary law limits the campaign expenditures of candidates, their managers, and others in their behalf, both as to purpose and amount. The permitted items of expenditure are traveling expenses, payment of fees for placing name on ballot, hire of clerks and stenographers, communication charges, printing and stationary, rent for offices and headquarters, procuring lists of voters, newspaper and other advertising and publicity, and expenditures incident to public meetings. The authorized limits range from $300.00 for candidates for offices in small counties to $10,000.00 for candidates for governor and United States Senator. The first and second primaries, for the purposes of the law, are considered together as one primary election. Candidates and campaign managers in state and district races must make itemized reports to the Secretary of State; all others to the county clerk. Sworn statements of candidates and managers are due both before and after the primary elections.

---

[37] *Texas Election Laws*, Art. 3134, 3135, 3138–3142.

[38] *Ibid.*, Art. 3167.

These statements are to remain a public record for one year. Corporations are forbidden to make contributions; other persons may contribute under certain limitations. Violations of any of these provisions operate to forfeit the candidate's right to have his name placed on the ballot. Proceedings in *quo warranto* may be instituted to enforce them.[39]

Lastly, with a contest apparently impending over the gubernatorial nomination as a result of the close vote and the alleged fraud in the run-off primary of 1932,[40] some attention must be given to the procedure set forth in the law for contests in the primaries. Contests based on fraud or illegality in the conduct of primaries may be brought before the proper party executive committee (in the case of state-wide contests—the state executive committee) within five days after the result of the election has been declared by the committee or convention, or before the state district court of the district where the contestee resides, the committee and the court having concurrent jurisdiction.[41] Appeals from the executive committee, however, may be taken to the district court. In all contests before the district court exercising either original or appellate jurisdiction, either party has a right of appeal to the court of civil appeals. It has been held that the district court may take cognizance of every part of the election and may receive evidence pertaining to events before, during, and after the election.[42]

So far, two prominent features of the Texas primary have not been considered in detail; namely, the party test and the so-called "White Primary." They have been reserved for more detailed discussion, because of the extended controversy they have

---

[39]*Ibid.*, ch. 14; *State v. Meharg*, 287 S.W. 670 (1926); *Yett v. Cook*, 281 S.W. 837 (1926); *Staples v. State*, 244 S.W. 639 (1922).

[40]*San Antonio Express*, Aug. 20, 21, 1932, and Sept. 1, 2, 3, 1932.

[41]If a contest is filed in the governor's race just closed and is taken before the Democratic State Executive Committee, it must be within five days after the State Convention, which convenes this year on September 13th, declares the result of the run-off. If filed in the district court, it must be within 10 days after the certificate of nomination is issued by the chairman or secretary of the state convention. *Texas Election Laws*, 1928, Art. 3148, 3152.

[42]*Ibid.*, Art. 3146–3153; *Bickley v. Lands*, 288 S.W. 514 (1926). Other important decisions involving procedure in contests are: *Couch v. Hill*, 10 S.W. (2nd) 170 (1928); *Kinnard v. Lee*, 244 S. W. 1046 (1922); *Gettys v. Cobble*, 244 S.W. 860 (1922); *Hammond v. Ashe*, 131 S.W. 539 (1910); *Hamilton v. Monroe*, 287 S.W. 304 (1927); *Elliot v. Williams*, 9 S.W. (2nd) 483 (1928); *Seale v. McCallum*, 287 S.W. 45 (1927).

inspired, and because of the importance they have assumed. Both involve the question of party membership and, incidentally, that of the very nature of political parties themselves. By way of introducing these features, therefore, as well as providing a fitting conclusion to the general description of the primary system just concluded, something must be said of the nature of political parties as understood by the Texas courts.

It would seem that political parties in Texas, in view of the extensive legislative regulation of their structure and nominating procedure, have largely, if not completely, lost any character they may once have had as voluntary organizations, and have become mere agencies of the state. This theory of their status, however, has been consistently avoided by the Texas courts, and with some reason. In the first place, the primary machinery is in no respect operated by the regular election officials as is the case in many other states, and secondly, candidates for primary nominations bear the entire expense of operation. Moreover, there still seems to be a residuum of inherent powers left undisturbed by legislation.

The leading Texas case defining the nature of political parties is probably *Waples v. Marrast*,[43] decided by the State Supreme Court, wherein the Court said: "A political party is nothing more or less than a body of men associated for the purpose of furnishing and maintaining the prevalence of certain political principles or beliefs in the public policies of government . . . they serve a great purpose in the life of government," but, "They perform no governmental function. They constitute no governmental agency. The purpose of their primary elections is merely to enable them to furnish their nominees as candidates for the popular suffrage. In the interest of fair methods and a fair expression of their members of their preference in the selection of nominees, the State may regulate such elections by proper laws, as it has been done in our general primary law . . . ." But "to provide nominees of political parties for the people to vote upon in the general elections, is not the business of the State." Many other Texas cases, subsequently decided, cite this case as authority,[44] and it would seem to express both the legislative intent behind the primary laws as well as the prevailing opinion among party

---

[43]184 S.W. 180 (1916).

[44]See: *Koy v. Schneider*, 221 S.W. 880 (1920); *Cunningham v. McDermott*, 277 S.W. 218 (1925); and *Love v. Wilcox*, 28 S.W. (2nd) 515 (1930). Also consult the dissenting opinion in *Nixon v. Condon*, 52 S.Ct. 485 (1932).

officers and members. In this light, then, both what has been dealt with above and what follows must be considered.

III. The Party Pledge

The Texas primary may be classified as "closed," not only because the primaries of different parties are required to be held in separate places, but because a party test, or pledge, is exacted of all who participate. The present general party pledge dates from 1907. The State Democratic platform of 1906 demanded it, and Governor Campbell, in reminding the Legislature of the plank, declared that such a requirement was "essential to party harmony."[45] The resulting statute, which is still in effect, provided that: "No official ballot for primary election shall have on it any symbol or device or any printed matter, except a uniform primary test, reading as follows: 'I am a_____ (inserting name of political party or organization of which the voter is a member) and pledge myself to support the nominee of this primary;' and any ballot which shall not contain such printed test above the names of the candidates thereon, shall be void and shall not be counted."[46] This test is applicable to all primary elections and to all offices for which candidates are nominated by party primaries.

In 1913, however, when candidates for the United States Senate were brought under the direct primary law, a more stringent test was adopted, which is still on the statute books. It applies only to the nomination of such candidates, but, since they are voted for on the general primary ballot, it could be made to apply to all candidates in such primary.[47] It has not, however, been generally enforced. Its terms are that: ". . . No person shall vote for any candidate for the nomination for United States Senator who does not belong to the same political party with which the voter affiliates and when any voter attempts to vote for any person as a candidate for the nomination for United States Senator, and is challenged he shall, before being permitted to vote, make an affidavit that he is a bona fide member of said party and if he

---

[45] *House Journal*, 30th Legislature, Regular Session, 1907, p. 126.

[46] *Texas Election Laws*, 1928, Art. 3110. Other tests were considered at the time of the adoption of this one. See *House Journal*, 30th Legislature, Regular Session, 1907, pp. 72–73, 1473, 1487; and *Senate Journal*, 30th Legislature, Regular Session, 1907, pp. 917, 920–921, 1081, 1126.

[47] *San Antonio Express*, June 7, 1930.

voted in the preceding general election held for the election of State officials, he voted for the nominees of the party whose ticket he desires to vote. Upon making such affidavit he shall be permitted to vote."[48]

Still another enactment, adopted after the United States Supreme Court invalidated the so-called Texas white primary law of 1923, and designed to give political parties the liberty to frame their own rules barring negroes from their primaries, provided that: "Every political party in this State through its State Executive Committee shall have the power to prescribe the qualifications of its own members and shall in its own way determine who shall be qualified to vote or otherwise participate in such political party; provided that no person shall ever be denied the right to participate in a primary in this state because of former political views or affiliations or because of membership or non-membership in organizations other than the political party."[49] As will be seen later, this provision in turn was annulled in 1932 by the United States Supreme Court at least in so far as the power thus delegated by the legislature to the state executive committee of the party could be used to bar negroes from the primary. Beyond this, the provision is apparently still in force. It obviously permits party authorities to add to the qualifications for party membership already prescribed by law, provided that no party rule shall establish a test based upon the past party performance of the voter. This would seem to offset the provision affecting Senatorial nominations noted above.

The meaning of these provisions has been widely discussed in connection with three state-wide campaigns and elections, and has been subjected to considerable interpretation by the courts.

In the Democratic primary election of 1924, Mrs. Miriam A. Ferguson secured the nomination for governor. She was seriously objected to by many Democrats for various reasons and was strenuously opposed by her Republican opponent, Mr. George C. Butte, in the general election campaign. Indeed, the fact that the general election should provide a real contest was quite exceptional. Some prominent Democratic leaders, including the veteran politician, Thomas B. Love, deserted the Democratic candidate, and a widespread popular debate arose over the binding character of the pledge. The campaign was further intensified by the

---

[48] *Texas Election Laws*, 1928, Art. 3095.

[49] *Ibid.*, Art. 3107.

opposition of the Ku Klux Klan and certain "dry" forces to Mrs. Ferguson. Loyal Democratic leaders strove to keep the party voters in line. Lieutenant Governor T. W. Davidson declared that "No good Democrat's pledge should be a scrap of paper only. His moral obligation should be as binding as his legal obligation."[50] Other leaders spoke out, and the Democratic State Executive Committee denounced any person as "undemocratic" who went into the primary election and then refused to support its nominee in the general election.[51] The Republican candidate continuously minimized the obligation of the Democratic pledge. "Isn't it strange," he remarked, "that the laws of Texas which extort this pledge to support the nominee also provided in another section just how any voter may lawfully vote a mixed ticket . . . "[52] The answer of the independent voters was registered in the casting of 298,046 votes for Butte out of a total of 720,105.[53]

The results of 1924 no doubt helped to prepare the way for the successful bolt from the Democratic party in 1928, when the Republican presidential electoral ticket carried the State.

The court decisions interpreting the meaning of the party test provisions of the law might be regarded as not altogether consistant, for there is seemingly one law for the voter and another for the party official and the party candidate. Such a difference, however, has some practical justification. It is good politics to forgive erring followers, while punishing wayward leaders.

Cunningham v. McDermott[54] is a leading case with reference to the voter. It had to do with a group of twenty-five voters, who had participated in the party primary, and had taken the pledge. In the following general election, however, they voted for an independent candidate, who had been defeated in the same primary. The court held that their votes in the election were valid; hence their violation of the pledge was of no legal significance. Another court decision involved a rule of the Democratic party adopted in 1926, which attempted to punish violations of the pledge in the election of 1924, by requiring that all voters in the primary of 1926 subscribe to an oath that they "did not vote, give aid, or support or comfort to any political party or its nominees,

---

[50] *Austin American*, Oct. 23, 1924.

[51] *Ibid.*, Oct. 7, 1924.

[52] *Ibid.*, Oct. 2, 1924.

[53] *Texas Almanac* (Dallas, 1925), pp. 89, 93.

[54] 277 S.W. 218 (1925).

other than the Democratic party and its nominees in the last general election." The court held this rule invalid because it prescribed a test of past affiliation. "The law does not purport to measure his (the voter's) eligibility by his past political performances, but by his present intentions; not by what he has done or omitted to do in the past, but what he promises, and in honor obligates himself to do in the immediate future."[55]

A very recent case of importance involved the power of the state executive committee of a political party to exact a pledge of voters wishing to participate in the precinct and county conventions held to select delegates to the state convention at which the state delegation to the national convention is chosen. The law seemingly neither grants nor forbids the use of such power by the committee in regard to this type of convention.[56] The Democratic State Executive Committee had long assumed that it possessed the power. Therefore, as usual, the Committee adopted a resolution in March, 1932, providing that no person should be allowed to participate in these precinct or county conventions "unless such person be willing to take, and shall in good faith actually take, a written pledge as follows, to wit: 'I hereby pledge myself to support the nominees of the Democratic party for president and vice-president of the United States, by voting for the Democratic electors of the State of Texas'." The power of the committee to adopt such a resolution was upheld by the Supreme Court of Texas on April 21, 1932. "Without either statutory sanction or prohibition," said the court, "the party must have the right to adopt reasonable regulations in the enforcement of such obligations to the party from its members as necessarily arise from the nature and purpose of party government."[57] It will be noted, however, that the pledge exacted involved no more than a statement of present intention.

In regard to party officials, the courts are less lenient. In the case of *Scurry v. Nicholson*,[58] the Democratic Executive Committee of Wichita County sought to oust Nicholson, a member of the Committee, because he refused to submit to an oath prescribed by the Committee to support the presidential and vice-presidential nominees of the party in 1928. Nicholson sought to prevent

---

[55]*Briscoe v. Boyle*, 286 S.W. 275 (1926).

[56]*Texas Election Laws*, 1928, Art. 3167.

[57]*Love v. Buckner*, 49 S.W. (2nd) 425 (1932).

[58]9 S.W. (2nd) 747 (1928).

his removal by injunction. The court upheld the Committee's right to adopt such a rule and denied an injunction on the ground that Nicholson did not come into court with "clean hands."

Three leading decisions apply to the effect of the pledge on a party candidate for public office. In *Westerman v. Mims*,[59] one Fuller, in order to get his name on the general election ballot, sought to mandamus the Secretary of State to instruct the county clerk to place it there. Fuller had voted in the Democratic primary of 1920 and had submitted to the party pledge. At this primary, one Street was nominated for Judge of the 56th Judicial District. Subsequently, Fuller allowed petitioners to present his name as an independent candidate for the same office in the general election, opposing Street. The court denied the writ on the ground that Fuller was morally bound by the primary pledge not to undertake the defeat of Street in the general election even though " . . . the obligation is one that cannot be enforced by action . . . ." Moreover, the petitioners, who also brought the suit, were held guilty of a moral breach, and, therefore, did not approach the court with "clean hands."

Another case of more recent date, *Love v. Taylor*[60] involved a similar question. Senator Love had been certified by the Democratic State Executive Committee as a candidate for Lieutenant Governor in the primary to be held in 1928. The certificate was duly received by the Cameron County Executive Committee, but the sub-committee charged with making arrangements for the primary in the county refused to authorize the printing of Love's name on the primary ballot in Cameron County. Love thereupon sued to restrain the printing of the ballot and to command the sub-committee to print his name. The defendants contended that Love, by his actions subsequent to the certification of his name by the State Executive Committee, had perpetrated a moral and legal fraud. They alleged that he had taken the pledge in the precinct and county conventions of 1928 and had been elected a delegate to the State Convention in which body he had announced his refusal to support Alfred E. Smith if the latter should be nominated for the presidency. After Smith's nomination, moreover, Love had informed the defendants that he would not support Smith, and he had also assisted in the organization of the "Hoover Democrats." The Fourth Court of Civil Appeals

[59] 227 S.W. 178 (1921).
[60] 8 S.W. (2nd) 795 (1928).

denied Love's appeal for an injunction on the ground that the Democratic party had a legal right to bar its outspoken enemies from a place on its primary ballot, and that, whether or not the defendants had acted illegally in refusing to recognize the certificate of the State Executive Committee, Love came into court with "unclean hands." The court said, in effect, that political parties were the mainstay of democratic government, and that the State had declared them such by its policy of regulating them even to excess, allowing all to come in and thus weakening their responsibility with respect to their candidates. Hence, as a matter of self-preservation, a party should be permitted to purge itself of its traitors.

Thus rebuffed, Love carried on his campaign in behalf of the "Hoovercrats" and helped to carry the State for Hoover in 1928. Encouraged by the outcome of this effort, Love introduced in the State Senate in 1929 his so-called "Conscience Bill," which proposed the abolition of the primary test. This bill, however, was reported unfavorably out of Committee.[61] Meanwhile, in the same legislative session, bills were introduced in both houses looking to a more stringent party test. The "Mankin Bill," introduced in the House of Representatives, would have made it unlawful to print on the primary ballot the names of prospective candidates unless their applications were accompanied by affidavits that they had supported the nominees of the party in the last general election, or, that they did not in any manner oppose the nominees of the party. This bill was tabled by a vote of 68–45.[62] A similar bill in the Senate was indefinitely postponed because of the defeat of the "Mankin Bill."[63] Finally, in the same session, a milder bill, the "Wirtz Bill," passed both houses.[64] It proposed to do no more than to repeal that clause of the primary law which reads: "provided that no person shall ever be denied the right to participate in a primary in this State because of former political views or affiliations."[65] This bill was vetoed, however, by Governor Moody, who declared in his veto message that he had "nothing to say about parties controlling their own destinies as voluntary organizations," but that "the bill comes at this time as one of the

---

[61]S.B. 14, *Senate Journal*, 41st Legislature, Regular Session, 1929, p. 516.

[62]H.B. 312, *House Journal*, 41st Legislature, Regular Session, 1929, pp. 570–575.

[63]*Senate Journal*, 41st Legislature, Regular Session, 1929, p. 657.

[64]S.B. 504, *Senate Journal*, pp. 973–74; *House Journal*, pp. 1419–1424.

[65]*Texas Election Laws*, 1928, Art. 3107 (Second Clause).

indirect results of the division which occurred in the democratic party in the campaign preceding the recent general election," and "that if the bill becomes a law it will prolong the bitterness which that campaign aroused and will continue and widen the breach in the democratic party."[66]

No further issue arose in the matter of the test until the primary election of 1930 approached. When filing his candidacy for governor in January 1930, Senator Love, in a letter to the Democratic State Chairman, recited his past record in disregarding the party pledge and declared that he was still a Democrat, but stated that "neither in law nor in morals could any pledge bind a voter to violate his conscience in casting his ballot at the general election."[67] In his reply, the State Chairman asserted it as his personal opinion that the party "has the right to regulate its own affairs and through its State committee decide who are eligible to become candidates of the party."[68] On February 1, 1930, the State Executive Committee met and approved a two-fold resolution inviting the bolting voters of 1928 to return to the fold, but barring as candidates in the coming primary all persons who had bolted the party ticket in that year. The upshot was that Love brought suit to mandamus the party committees to place his name of the primary ballot. The court granted the writ, holding that the test thus prescribed for candidates had to do with past performance and was therefore contrary to Article 3107 of the Election Laws. The decision stated that "The statutes have declined to defer upon the committee the discretionary power to exclude from participation in party affairs anyone because of former views or affiliations, or because of refusal to take any other than the statutory pledge." The court further held, however, that to qualify for candidacy in the primary, the aspirant must pledge himself "without reservation" and "to the utmost conscience and good faith" to support all nominees of the Democratic party for 1930.[69]

---

[66] *Austin American*, April 3, 1929.

[67] *San Antonio Express*, Jan. 6, 1930.

[68] *Ibid.*, Jan. 8, 1930.

[69] *Love v. Wilcox*, 28 S.W. (2nd) 515 (1930). In *Robbins v. Thompson*, 8 S.W. (2nd) 813 (1928), a writ of mandamus was denied in the case of one who sought to have his name placed on the primary ballot, but who refused to submit to the pledge in regard to any nominee who did not suit his religious principles.

Thus ended the question of the proper fate of the Democratic bolters of 1928. There is no reason to believe, however, that bolting has ceased for all time. Many "brass collars" were broken in 1924 and 1928. Some may be broken in the coming state election of 1932 in the event that Mrs. Ferguson is finally declared the Democratic nominee for governor, and if the events of 1924 may be taken as a precedent. It will take much persuasion, however, to convince most Texans that they can afford to trust the office to a Republican.

IV. The White Primary

In eleven Southern States the negro is barred by party rule from participation in the primaries of the Democratic party.[70] The same was true in Texas for many years, but within the last decade, the Texas Legislature attempted the experiment of establishing the white primary by statute, with results that might with no great difficulty have been anticipated.[71] The State Legislature was evidently moved to take this step in 1923 soon after the doubtful decision of the United States Supreme Court in the case of *Newberry v. U. S.*,[72] wherein all nine justices concurred in the practical result, but only four agreed that a primary was not an election within the meaning of the Fifteenth Amendment to the United States Constitution. Assuming, therefore, that a primary was not an election,[73] the Legislature enacted the provision that "In no event shall a negro be eligible to participate in a Democratic party primary election held in the State of Texas, and should a negro vote in a Democratic primary election, such ballot shall be void and election officials shall not count the same."[74]

The validity of this law was first tested and upheld by the Federal District Court in 1924, in the case of *Chandler v. Neff*,[75] in which a negro brought suit to enjoin the enforcement of the law, claiming that it violated both the Fourteenth and Fifteenth Amendments of the Constitution of the United States. The court

---

[70]Lewinson, Paul, *Race, Class, and Party* (New York, 1932) Appendix III.

[71]Pate, James E., "The Texas White Primary Law," *National Municipal Review*, Oct., 1927; Note: *Texas Law Review*, June, 1927.

[72]256 U.S. 232 (1921).

[73]See Lewinson, *op. cit.*, p. 113, for other motives.

[74]*General and Special Laws of the State of Texas*, 39th Legislature, 2nd Called Session, 1923, p. 74.

[75]298 F. 515 (1924).

denied both contentions; the right sought under the Fourteenth Amendment was held to accrue from state citizenship only, and, according to an interpretation placed by the court upon *Newberry v. U. S.*, the Texas primary was held not to be an election within the meaning of the Fifteenth Amendment.

This decision, however, did not settle the matter. In 1927, Nixon, an El Paso negro, sued to recover damages on the ground that he had been denied his constitutional rights under both the above amendments by the operation of the "White Primary Law." The case finally reached the United States Supreme Court, where the law was declared unconstitutional under the Fourteenth Amendment. Thus the court avoided the real issue involved, namely, whether or not a primary is an election within the meaning of the Fifteenth Amendment. Mr. Justice Holmes, in delivering the opinion, said, "We find it unnecessary to consider the Fifteenth Amendment, because it seems to us hard to imagine a more direct and obvious infringement of the Fourteenth." The statute in other words, was held to be a legislative discrimination based purely upon color and, therefore, in violation of the civil rights guaranteed by the latter amendment.[76]

The Texas Legislature thereupon repealed the invalidated article of the law and enacted the provision, already quoted above, which authorized, or recognized the right of, the state executive committees of all political parties to prescribe rules of membership. The State Executive Committee of the Democratic party adopted under this statute a resolution, effective for the 1928 primaries, which barred negroes from participating. In view of this resolution, the law authorizing it was questioned in the Federal District Court in the case of *Grigsby v. Harris*.[77] Relying on Texas decisions holding political parties as popular and not governmental agencies, the court refused to invalidate the law. It further held that the power thus exercised by the committee was not delegated by the Legislature, because it inherently belonged to the committee. In fact, the law was leaving the power

---

[76] *Nixon v. Herndon*, 273 U.S. 536 (1927).

[77] 27 F. (2nd) 948 (1928). Another case, similar to this one, which involved a party white primary rule adopted under a Virginia statute, was decided by a Federal district court in 1929. The main difference was that the state bore the expenses of primary elections. The court invalidated the statute and was sustained upon appeal by the U. S. Circuit Court. It was held that Virginia could not do indirectly what she could not do directly. *Bliley v. West*, 42 F. (2nd) 101 (1930).

where it was first located. "The legislature has simply abstained from interfering, leaving the power where it originally resided and naturally belongs."[78] Later, in *White v. Lubbock*,[79] a case involving the same point, the Texas Court of Civil Appeals held that political parties in Texas were not governmental instrumentalities, but mere bodies of individuals, whose power to prescribe qualifications for membership was beyond statutory control.

Article 3107, however, could not have been expected to escape the attention of the United States Supreme Court. In 1929, L. A. Nixon, the El Paso negro who brought the suit cited above, questioned the Texas statute in an action for damages brought in the Federal District Court against James Condon and another, primary election judges in El Paso, for refusing to permit Nixon to vote in the primary election of 1928. The rule adopted by the Democratic State Executive Committee under Article 3107 for the Primary Election of 1928, read as follows: "Resolved, that all White Democrats who are qualified and under the Constitution and laws of Texas and who subscribe to the Statutory pledge provided in Article 3110 Revised Civil Statutes of Texas, and none other, be allowed to participate in the primary elections to be held July 28, 1928 and August 25, 1928, and further that the chairman and secretary of the State Democratic executive committee be directed to forward to each Democratic county chairman in Texas a copy of this resolution for observance."[80] The Federal District Court held that the Democratic State Executive Committee in passing this resolution was not acting as an agent of the State and was not a body corporate to which state legislative power could be delegated, nor was the primary an election within the meaning of the Fifteenth Amendment of the United States Constitution. Further, to quote the opinion, "The court also holds that the members of a voluntary association, such as a political organization, members of the Democratic party in Texas, possess inherent power to prescribe qualifications regulating the membership of such organization, or political party. That this is, and was, true without reference to the passage by the Legislature of the State of Texas of said Article 3107, and is not affected by the passage of said act, and such inherent power remains and

---

[78]Pate, *op. cit.*, p. 619.

[79]30 S.W. (2nd) 722 (1930).

[80]Quoted from *Nixon v. Condon*, 34 F. (2nd) 464 (1929).

exists just as if said act had never been passed."[81] Upon appeal, the U. S. Circuit Court of Appeals affirmed the judgment.[82]

On May 2, 1932, however, the Supreme Court of the United States, by a vote of 5 to 4, reversed the lower court and declared Article 3107 unconstitutional under the Fourteenth Amendment.[83] Mr. Justice Cardozo, in delivering the majority opinion, said in part: "Whether a political party in Texas has inherent power today without restraint of any law to determine its own membership, we are not required at this time to determine . . . . Whatever our conclusion might be if the statute had remitted to the party the untrammeled power to prescribe the qualifications of its members, nothing of the kind was done. Instead, the statute lodged the power in a committee, which excluded the petitioner and others of his race, not by virtue of any authority delegated by the party, but by virtue of an authority originating or supposed to originate in the mandate of the law. . . . Whatever inherent power a state political party has to determine the content of its membership resides in the state convention. There platforms of principles are announced and the tests of party allegiance made known to the world. What is true in that regard of parties generally is true more particularly in Texas, where the statute is explicit in committing to the state party convention the formulation of the party faith. (Article 3139). The State Executive Committee, if it is the sovereign organ of the party, is not such by virtue of any powers inherent in its being. It is, as its name imports, a committee and nothing more, a committee to be chosen by the convention . . . (Article 3139) . . . The pith of the matter is simply this, that, when these agencies are invested with an authority independent of the will of the association in whose name they undertake to speak, they become to that extent the organs of the State itself, the repositories of official power."

Thus once again the Supreme Court could fall back upon the Fourteenth Amendment and avoid saying whether or not a primary election in Texas is an election under the Fifteenth Amendment, and, incidentally, whether or not a political party is an agency of the State. The "inherent" power of the party and its status as a voluntary association as held by the Texas courts are

---

[81] *Ibid.*, p. 469.

[82] 49 F. (2nd) 1012 (1931).

[83] *Nixon v. Condon*, 52 S.Ct. 485 (1932). Justices McReynolds, Van Devanter, Sutherland, and Butler dissented.

left to stand for the time being. As Mr. Justice McReynolds points out, however, in the dissenting opinion, it is not new in Texas to vest party executive committees with ultimate powers, and "such grants are not necessarily contrary to the will of the party." Moreover, he contends that "Political parties are fruits of voluntary action. Where there is no unlawful purpose, citizens may create them at will and limit their membership as seems wise. The State may not interfere. White men may organize; blacks may do likewise. A woman's party may exclude males. This much is essential to free government." A political party, he continues, "must yield to reasonable conditions precedent laid down by statute. But its general powers are not derived from the State, and proper restrictions or recognition of powers cannot become grants." Thus he meant that the Texas Legislature in the act invalidated had not granted a power; it had simply recognized one as existing inherently in the party; it was going back to the situation such as it was prior to the enactment of the "White Primary Law" of 1923.

The Democratic State Convention in May, 1932, in view of *Nixon v. Condon,* asserted its "inherent" authority and passed a resolution similar to the ones issued by the State Executive Committee in 1928 and 1930. It reads "Be it resolved, that all white citizens of the State of Texas, who are qualified to vote under the constitution and laws of the state shall be eligible to membership in the democratic party and as such are entitled to participate in the deliberations."[84] In view of the above court decision, some Democratic county chairmen announced their opposition to the rule in theory, others stating that their county organizations would defy the State Convention and refuse to observe the rule.[85] This attitude on the part of some county Democratic organizations in Texas is, however, not new; the principle of the "White Primary" has been habitually violated in several counties where political advantage is to be served by allowing negroes to vote in the primaries.[86]

With the second Nixon case in mind, however, two injunction suits were brought before the Federal District Court on the eve

---

[84]Copy received by J. M. Patterson, Democratic County Chairman of Travis County, from W. O. Huggins, Chairman, State Executive Committee, *Austin American-Statesman,* July 17, 1932. It expressly applied to both the first and second primaries of 1932.

[85]See *San Antonio Express,* May 18, June 22, July 13, July 22, 1932.

[86]See Lewinson, *op. cit.,* pp. 147–148, 154, 155.

of the first primary election of 1932 by Houston and San Antonio negroes to compel election judges to permit them to vote. This court on July 20th, held that the relief asked was in the nature of a *mandamus*, which was beyond its competence to grant, but the opinion was advanced that the Democratic State Convention was the agent of the State and that, since the State could make no such rule, the convention assuredly could not.[87] On the day following this decision, suit for injunction was filed in the 45th District Court of the State of Texas in San Antonio, and on July 22, the day before the first primary, this court issued the injunction, basing its decision on the second Nixon case. On the same day, however, the Fourth Court of Civil Appeals set aside the injunction on the ground that a political party is a voluntary organization with the right to determine its own membership.[88] On August 2, upon application of the party bringing the suit, the last named court certified the question to the State Supreme Court as to the authority of the Democratic State Convention to bar negroes from the primary.[89] This court, however, dismissed the question on technical grounds and thus upheld the appellate court in setting aside the injunction, but gave no inkling as to its view on the question involved.[90] And thus the matter stood at the time of the run-off primary of the present year.

The issue is likely to arise again in the courts and has already precipitated considerable general discussion. Some Democratic leaders are advocating that the primary law should be repealed altogether, and that the state should abandon all attempts to regulate parties.[91] Only in this way, they think, will a white man's party be safe from the "mining and sapping" of the courts. No doubt, such a proposal will receive serious consideration. Negro participation in Democratic primaries will also be considered from another angle, in view of the impending contest of the result of the governor's race in the August primary, for it has been reported that negroes were allowed to vote in an increased number of counties in defiance of the party rule. It is, in fine, not a debatable matter in most localities in Texas whether or not

---

[87] *San Antonio Express*, July 21, 1932.

[88] *Ibid.*, July 23, 29, 1932.

[89] *Ibid.*, August 2, 1932.

[90] *Ibid.*, August 16, 1932; *County Democratic Executive Committee in and for Bexar County et al v. C. A. Booker*, Texas Supreme Court, Docket Number 6319, August 15, 1932.

[91] *New York Times*, May 8, 1932, p. 6E; *San Antonio Express*, May 4, 1932.

negroes should participate in Democratic primaries. Regardless of how the question may be settled by courts, legislative bodies, and state party tribunals, the practical means for barring negroes, where it may be occasionally necessary to use them, are well understood. It must be remembered, however, that the fear of negro participation is not so much that of the negro himself as it is of the sort of political control that may be exerted over many negroes.

FURTHER LEGISLATION ON FARM MORTGAGE CREDIT

BY VIRGIL P. LEE
Texas A. & M. College

The government has done much during the past fifteen years to improve the farm mortgage credit system in the United States. The facilities of a Federal system of farm mortgage banks have been made available to farmers in all sections of the country. The Federal land banks have been beneficial far beyond the extent of their own loans—they have supplied competition that has caused private lending agencies to liberalize their loan policies in many ways, particularly as to the length of term of loans, methods of repayment, and as to interest rates and commission charges.

The Federal land banks have found a wider and cheaper market for farm mortgage securities and they have adjusted loans to the farmer's requirements. Under governmental supervision they have created a standardized security, which is issued in lumps of millions of dollars in the heart of the country's financial centers. And as a special inducement to investors, they have offered a tax-free security. The result during most of the period since the organization of the banks has been the easy sale of any quantity of Federal land bank bonds at 4 to 4½ per cent. Large scale operations of the banks have made it possible to pass loans on to farmers at rates only ½ to 1 per cent higher, and for many farm borrowers this means a reduction in the cost of mortgage loans of as much as 25 to 50 per cent.

Not only have these banks given farmers access to more and cheaper credit, they have adjusted the term of loans and the methods of repayment. The old 3, 5, and 10-year terms with full payment due at the end of the term have been supplanted in this system by a flexible term of from 5 to 35 years and a regular system of repayment by installments.

Such extensive improvements in the investment credit system of a whole industry within the brief period of a few years are hardly conceivable. The job of the Federal land banks has been done so well, in fact, that it would seem that we have settled the question of long-term farm credit. What more could the government do? It certainly seems to have gone the limit in sponsoring the Federal Farm Loan system, particularly in setting up the Federal land banks with funds from the Federal treasury. More

than this, the government went to the extent of allowing these farm securities to be issued tax-free in competition with tax burdened securities of other industries, even in competition with the tax-burdened securities of private farm mortgage companies. Such extreme measures to open up the channels of credit to farmers were and still are seriously questioned as out-and-out subsidies. But the system is now well established and the special favor of tax-exemption is likely to continue.

As a result of all this government activity in behalf of farm mortgage financing, the general opinion is that the government cannot be expected to do more, that any further improvement must be made by the farmers themselves. Granting that enormous improvements can be made by the farmers and also by the bankers, I am proposing in this paper still further functions which the Federal and state governments, particularly the latter, might well perform in behalf of farm mortgage financing. In my opinion, the magnificent performance of the government in connecting farmers with the financial centers with commendable speed has left untouched many of the most serious problems in farm mortgage financing—problems which properly fall within the sphere of government activity.

My suggestions as to further government activity apply almost entirely to the state and local governments. The glamour of the establishment of a national system of farmers' banks has so overshadowed the functions of state and local governments that it has scarcely occurred to the public that these bodies have anything to do with the situation.

The primary need of all farm mortgage financing agencies at present is a more scientific system of appraisal. The short-cut method of dividing current sale value by 2 to determine the amount to lend on a farm has been eminently unsuccessful. Sale price served well as a basis for loans just so long as the trend of farm land values was upward, but our experience since 1920 has undermined the old idea that farm land prices always go up. From 1915 to 1920 we had our first experience with a general inflation of land values which was serious enough to call for a long period of deflation. The result is that ten years later various lending agencies with foreclosed farms on their hands hesitate to place them on sale for fear of still further breaking the market. The experience of the past ten years has frightened mortgage loan investors. It appears likely that insurance companies which in

the past have furnished an enormous amount of farm mortgage credit will definitely switch a larger portion of their funds to other investments. Thousands of individual lenders who have recently lost heavily on farm mortgages will be hard to win back. Even the Federal Farm Loan system has lost much prestige, particularly the joint stock banks. Five per cent bonds of any number of the joint stock banks have been selling at $25 to $75.

If the mortgage loan market is to be maintained, or indeed regained, investors must be assured that the experience of the past ten years will not be repeated. This, every mortgage banker knows, and he is eagerly looking for a safer and better method of placing loans. Heretofore, the farm mortgage financing problem centered on the development of financial machinery to reach the investment market. Once the banks were developed so as to reach the investor, they found a good reception. There was a well established opinion that farm mortgages were among the very safest investments, probably second only to government bonds. The banker's job was chiefly a matter of establishing his own reputation with investors and of devising some plan to amass large volumes of farm mortgages. This the Federal mortgage banks did in a remarkably short time. But now the farm mortgage itself has lost much of its former prestige. The emphasis in mortgage banking must now be shifted from the development of marketing machinery to the improvement of the product. That is, mortgages must be selected with a great deal more care than formerly. The investing public must be convinced that some farm mortgages are still sound investments.

It might seem that loan policies are wholly a concern of the mortgage banks and that there is nothing the government can do about it. But a sound loan policy must be based on economic information, and the Federal and state governments have definitely assumed the function of supplying basic agricultural information. The farming business is divided into such small units that long ago it seemed inevitable that the government must assume the task of collecting and distributing information. In fact, the Federal and state departments of agriculture are chiefly gatherers and distributors of information. Formerly they dealt almost entirely with technical production problems, such as the improvement of breeds of livestock and of seed for crops, the control of diseases and insects, and the analysis of soils, but in recent years

they have gone into the field of economic information. The principle is now well established that an increasing amount of agricultural economic information must be obtained, and the government has already assumed the function, but the job of collecting facts that are needed has scarcely been started.

Our farm mortgage experience since 1920 has led to one rather definite conclusion: That loan agencies must give less emphasis to current sale value in appraisals and more to trends of agricultural income, less thought to what the farm might sell for and more to the size of the annual payments which the borrower will be able to make during the term of the loan. This means analysis of farm income over a long period of years as contrasted with the old system of estimating current sale value of the property to be mortgaged.

Crop and Livestock Information

When the mortgage bank attempts to estimate the farm income of an individual borrower, or the average income in the various areas in which it is extending loans, the problem seems almost impossible because of the lack of accurate records. In the absence of individual farm records extending over several years of operation, the banker needs, first of all, the figures on annual crop and livestock production. In a study of the farm mortgage situation made by a group of insurance companies during 1930, an effort was made to get the trends of crop and livestock production in various counties over the country since 1920 as a basis for determining the foreclosure and lending policy of the companies. The available figures in most states were inadequate. In many states not even a rough estimate of crop and livestock production was available by counties, except for the census years of 1920 and 1925. The data for these years gave little or no idea of the trend or regularity of production. In other states the Federal and state departments of agriculture had made annual estimates which were very helpful. It was very significant to find that the average production of wheat varied in a certain county from 9 to 25 bushels per acre during this ten-year period, that the production was 12 bushels one year, 25 the next, 15 the next, 18 the next, and 10 the next. Also, it was significant that the number of hogs in the county declined by 25 per cent during the period, the number of dairy cows declined by 20 per cent, the quantity of dairy products declined 25 per cent, and the acreage in clover

and other soil-building crops steadily declined. In states where such annual figures are not available the census figures alone must be used, and they are misleading in that the particular year in which the census was taken might have been abnormal.

In most of the important agricultural states, aside from the Southern States, annual crop and livestock estimates by counties are made. Usually this work is done by the Division of Crop and Livestock Estimates of the United States Department of Agriculture in coöperation with the state departments of agriculture. In some cases the tax assessors collect the information at the time they make their annual assessments, in other cases the county agent's reports are used, and in still other cases estimates are made from samples of data collected by various county, state, and Federal employes. Estimates with a high degree of accuracy are available in very few states. The work is new and many improvements are yet to be made.

The Federal, state, and county governments must put much more money and effort into this job before maximum use can be made of crop and livestock production figures. Only a beginning has been made and many states have not started. For maximum usefulness the figures must be accurate and they must be collected for smaller territorial units. In the northern states the data should be available by townships and in other states data should be available by commissioners' districts, or by precincts, depending on the prevailing civil divisions of the county. Information by smaller units is extremely important, since many counties have widely diverse conditions within their borders. One section will be developing livestock farming intensively, while another is centering on one or more commercial crops. The fertility of the soil in one section will be gradually declining, while it will be well maintained in another section. What the banker needs is a complete record of production over a long period of years for the immediate area in which the borrower's farm is located.

Price Information on Farm Products

The next logical step in the banker's process of getting at the income possibilities of the area is an analysis of the prices which farmers get for their products. Of course, the Federal Department of Agriculture is now collecting an immense amount of price data. But these prices are restricted largely to the great central markets and to average estimated farm prices for a whole state.

We are yet far from having sufficient local price data. Little is known of prices as they are influenced by local competitive conditions in the various communities. To say that middling cotton, one inch in staple, sells for 20 cents in Houston gives little indication of what it is selling for in any specific local market.

The Federal Department of Agriculture is making excellent progress in the analysis of long-time trends of prices for various farm products, and undoubtedly further improvements will be made along this line. Long-time trends are so intimately tied up with long-time trends in production costs, as influenced by new inventions of machinery, the use of new lands, and the shifts in production over the world, that accurate estimates are difficult to make. Nevertheless, this is the sort of information a mortgage banker needs when he places a loan for a period of 20 to 30 years.

Land Prices

Another type of information which government agencies should supply is that regarding land sales and land prices. The county records carry this information, but it is in such form that it is of little value in revealing either the activity of the land market or the bona fide sale prices of land. Of course, every transfer of title to land is recorded, with the consideration involved, but the investigator cannot always distinguish between ordinary sales and family sales. If the consideration in the sale of a farm from father to son is placed at the nominal figure of one dollar, the sale can easily be thrown out as not being a normal sale. But he has no way of determining other family sales. Also, there is some question of the accuracy of the county records in showing the full amount of the consideration. After all, the naming of the consideration is only incidental in the registration of the transfer of title. The chief purpose of the record has always been a matter of keeping ownership straight, and price is of little importance.

Farm mortgage bankers, as well as all land buyers and sellers and many other interests, are vitally concerned with the activity of the land market and the price for which land is selling. That is, they are concerned with the number of ordinary, normal sales and the prices for which land is selling in normal sales. These facts are a good indication of the demand for land and the value placed on it under normal competitive sale conditions. A complete and accurate record of normal sales in various parts of the county for a long period of years would be an invaluable indicator of the

trend of farm land prices and of sales activity. Since the current system of land appraisal centers around sale price, such records would greatly increase the accuracy of mortgage bank appraisals. At present this information is commonly obtained from the borrower, or from local bankers and merchants. At best the information is based on a very small percentage of the total sales of the community, and it is based largely on memory.

Records of farm land sales and prices are now being collected in a few states. In Wisconsin, income tax assessors are charged with the duty of collecting accurate data on land sales. The assessors make investigations as to the nature of the sales and attempt to get accurate price figures on normal sales. These records are then received by members of the State Tax Commission, and in case corrections or additions are needed they are returned to the assessors for revision. The income tax assessors are necessarily men of considerable ability and they are supervised by the State Tax Commission. This means that the records are reliable and fairly uniform throughout the state.

In states which do not have income tax assessors, the ordinary county and township assessors could probably do the job. It must be recognized, however, that the ordinary assessor will have to receive higher compensation if this work is to be done in a satisfactory manner. With a reasonable salary more efficient assessors will be available. In order to obtain uniform records and to maintain accurate sales records it is probably desirable to have this work under the general supervision of the state government.

Farm Incomes

Another type of information which the banker needs in determining loan policies is typical analyses of farm income. The Federal Department of Agriculture and many of the state agricultural experiment stations are doing something along this line. But they are seriously handicapped by inadequate funds and personnel. This is particularly true of the state experiment stations. If a mortgage banker should look about for a timely and accurate farm income analysis in most any region in Texas, for instance, he would likely give up in despair. The Texas Experiment Station staff, as it is financed at present, does well to make such an analysis for one small area once in three years.

Foreclosures, Tax Delinquency, and Mortgage Records

Finally, there is a lot of valuable information in the county records which is needed by mortgage bankers, particularly the figures on foreclosures, tax sales, tax delinquencies, chattel mortgages, and real estate mortgages. Of course, any banker has the privilege of going through these records, but an immense amount of time is required to get these data for the county, even for one year. And every mortgage concern making loans in the county would have to duplicate the effort. The result is that the appraiser usually restricts his efforts to ascertain whether the particular borrower in question has any outstanding mortgages. A little expense on the part of the county would make these records usable for the county as a whole. That is, with a little additional clerical help all these figures could be compiled each year. Mortgage lenders could ascertain at a glance the general trend during recent years in the number of foreclosures, the amount of land which was delinquent for taxes, the use of chattel mortgages, and the extent of mortgage financing.

The Tax Problem

One of the most serious problems in farm mortgage financing is that of taxation. It is becoming more obvious every year that radical changes must be made in the tax system as applied to the agricultural industry, particularly the local and state tax systems. A majority of the states have essentially the same tax system they had when they were organized. Aside from a few taxes, such as the gas tax, we have the same time-worn ad valorem tax on real estate, with the same old joker of a tax on personal property, tangible and intangible. The latter tax has become so ineffective that in many districts assessments are no longer made.

When the American tax system was established practically all of the wealth in the country was agricultural wealth. Farmers owned most of the real and personal property, and a tax set according to the value of the property was a fair measure of ability to pay. Also, it made little difference if personal property was passed over lightly, provided all taxpayers got the same exemption. It simply meant that the real property had to bear a heavier rate.

Mining, manufacturing, and the other non-agricultural industries have now developed to the point that agriculture receives less than half of the income in most of the states and in many states

it is only a very minor factor. For the country as a whole farmers received only about 15 per cent of the national income in 1928. The Federal government wisely shifted the basis for a very large percentage of its tax to income. A few states have done likewise. In some cases they have frankly dropped the sham of taxing personal property.

The difficult economic position of agriculture since 1920 has brought the tax problem to the fore in a very pronounced way. The high degree of prosperity in other industries during a large part of this period served to emphasize the unequal tax burden of farmers. Another ten years of comparative depression in agriculture will undoubtedly bring significant tax reforms, but it is a rather serious indictment of our mass intelligence to delay reform until the farming industry is bankrupt.

It is obvious, of course, that an industry which is taxed out of proportion to its earnings will have difficulty in obtaining credit. Insurance and mortgage companies are now finding that taxes take a very large percentage of borrowers' net income. When it is a question of paying the interest on the mortgage or of paying taxes, of course, the mortgage suffers. If such conditions are prolonged we are likely to see a still further slowing up of the flow of credit to agriculture.

But aside from the general tax burden there are at least two phases of the present system of taxes which are serious handicaps in farm mortgage financing. In many states both the mortgage and the farm are taxed. That is, in many cases the mortgage holder is taxed for the amount of the mortgage and the farmer is taxed not only for his own equity in the land, but also for the equity represented by the mortgage. Since farm mortgages must compete in the general investment market with other securities not similarly handicapped, the whole burden of the double tax is shifted to the borrower. Some states, notably California, have made an attempt to prevent such double taxation by exempting that part of the value of the farm represented by the mortgage. But a majority of the states have done nothing about it.

Special Tax Districts

Probably the most exasperating situation for the mortgage banker in connection with taxation is the system of special taxes, which are often extremely heavy. Notable among these are taxes for drainage, irrigation, and schools. In some sections of the

country special taxation districts have been created in great numbers. In fact, it seems that ambitious citizens have just discovered this method of promoting the economic interest of whole groups of people. A taxing district is created in the enthusiasm of the moment, and in many cases the tax takes almost all the value out of the land.

Of course, the creation of special school districts with heavier tax burdens is often justifiable. In some cases special drainage systems increase the income of the community in excess of the cost, but all too frequently plans are made too hastily and the venture is a burdensome loss to the community.

Special tax districts have done much in recent years to increase the foreclosure rate. They give the mortgage banker much worry. Usually the economic benefits to be derived by the taxpayers are to come sometime in the future, while the tax burden is established at once. From the standpoint of farm mortgage investors, the possibility that such tax districts may be created during the life of the mortgage is a deterrent to investment. Ordinary taxes are at least certain, but such special taxes may be established at any time. The holder of a first mortgage has a claim which must be satisfied before those of any other creditor, but the government in the form of a new tax district can step in ahead of him at any time.

Our Bunglesome System of Land Titles

Then there is the question of land titles. The American land title system is probably the most bunglesome system in the world, and of all countries in the world a sane system of land title registration is most indispensable in America. There is probably no country which approaches us, either in the frequency of land sales or in the frequency of land loans, and titles must be determined every time a land sale is made and every time a mortgage loan is made.

Briefly, the process of "clearing the title" is as follows: (1) a professional abstractor, or an attorney, must be hired to go through the county records and write up a detailed history of the title as far back as the records go; he must determine whether each purchaser of the land in the past has received a clear, legal title—he does what is known as "abstracting" the title; (2) the purchaser of the farm, or the mortgage bank which makes a loan on the farm, must review the work of the abstractor to ascertain

whether he has done a good job—that is, after the title is abstracted the purchaser or borrower must have his attorney do what has come to be called the "determination of title." Both jobs are expensive, and in the case of a loan the borrower usually pays the total bill. In a sale the seller ordinarily pays for abstracting and the purchaser pays for determination of title.

The cost of abstracting depends in part upon the amount of work that is necessary to write up the history of the transfers of the land and in part upon the gullibility of the farmer and the conscience of the abstractor. There is little regularity in the charge, and frequently it is outrageously high. The job involves legal processes about which the average farmer knows nothing. He is anxious to complete his sale or loan and the abstracting job is a mysterious something that requires an expert. It is incidental to his main transaction in selling the farm, or in getting a loan on it, and he will pay a heavy charge rather than forego the sale or loan. Also, completion of the sale or loan leaves the purchaser or borrower with ready money with which to pay the abstractor. In other words, the bargaining power of the average farmer in getting his title cleared is *nil*.

Little information is available on the costs of abstracting and determining land titles. We do know from observation and personal experience, however, that it is often very high. Someone lodged a complaint with the Federal Farm Loan Board about the high cost of abstracting land in a North Carolina community a few years ago, and investigation disclosed that the cost per farm ranged from $31.60 to $230.00. The average was $112.92. To this must be added the expense for determination of title. This varies widely and is affected by somewhat similar conditions as the charge for abstracting. The Federal Farm Loan Act contains a rather significant clause in this connection. The Federal and joint stock banks are forbidden to charge "more than the actual cost" of title determination.

In our American system of land titles the process of abstracting and determining titles must involve all of the past history and the processes must be repeated for every sale and for every loan for all time to come. It is a fact, of course, that once a good job of abstracting is done, later purchasers or lenders frequently accept it as satisfactory. But all past history may be brought up at any time; there is nothing final about it.

It is surprising that such an inefficient system is permitted to continue in a country which has a great reputation for business efficiency. It is still more difficult to understand when it is considered that of all countries in the world land sales and land loans are most frequent in this country. In the first place, our chaotic system of land titles is due to lack of organized effort on the part of the farmers who bear most of the burden of the system. Secondly, most of the abstractors or legal advisers are opposed to change, since it would involve the loss of a lucrative business. Thirdly, there are real legal and constitutional difficulties involved in making a change. I shall outline briefly some of the difficulties which lie in the way of the adoption of a sane system of titles.

The so-called Torrens system of land title registration is considered the best system in the world for simplifying, quickening, and cheapening the transfer of real estate. Through the registration of title and the use of certificates which show conclusively the title at all times, this system attempts to achieve these purposes as well as to render titles safe and indefeasible. That is, in establishing this system the past history of the title is settled once for all, and henceforward the record is to be kept in simple and definite form. After the first cost is covered, the certificate of title is kept up to date and little further expense is involved, regardless of the number of transfers or the number of loans.

The Torrens system was applied over practically all of Australia about the middle of the last century, and in England, Ireland, Canada, and many other British dependencies before 1900. An investigation made by the Federal Farm Loan Bureau in 1918 revealed that 19 American states had laws designed to introduce this new system of land title registration. They are: California, Colorado, Georgia, Illinois, Massachusetts, Minnesota, Mississippi, Nebraska, New York, North Carolina, North Dakota, Oregon, Ohio, South Carolina, South Dakota, Tennessee, Utah, Virginia, and Washington. Illinois and California passed the law in 1897 and a few other states followed during the next few years, but 11 of the 19 states passed the law between 1913 and 1918. Doubtless other states have passed laws since that time.

Outwardly, the system seems to be sweeping the whole country. As a matter of fact, however, the Farm Loan Bureau reports that the system has been applied only in a very limited way in the states which have passed the law. The Bureau report includes the following statement: ". . . in no state has it been made use of

except in a small way, though in a few counties in some of the states, where the provisions of the statutes appear to be supplemented by a painstaking supervision of the court, it has advanced to the point that certificates of title have become acceptable in the usual course of business involving real estate transactions."

After making a thorough investigation, the authorities in the Farm Loan Bureau came to the conclusion that the failure to adopt the system, even in states which have passed special title registration laws, was due (1) to doubt as to the validity of material provisions of the statutes; (2) the time required for a registered title to become conclusive and available; (3) the initial expense; and (4) the human dislike to move until some immediate objective or necessity arises. In the opinion of the experts of the Bureau, the question of the constitutionality and general validity of the title registration laws is by no means insurmountable. They cite: "The rulings of many state courts of last resort in which the constitutionality of the acts in essentials has been upheld, and analogous decisions of the United States Supreme Court in which the main principle involved in the registration acts have been sustained." They indicate that one of the chief constitutional difficulties is that the title cannot be made conclusive immediately, and that in some of the states no statute of limitations has been provided, and in other states the time of limitations is insufficient.

It seems inevitable that a period of two or three years must elapse before the initial registration of title can be made conclusive. This in itself discourages many who look only for immediate benefits which may be derived from the system. This is obviously a very short-sighted view of the matter.

The Farm Loan Bureau has made an estimate of the average cost of the initial registration of title under the new system. The estimate is placed at $45 to $160 on a farm valued at $5,000. But the Bureau outlines the general provisions of a law which would not only meet legal objections but which would reduce the initial cost of registration to about one-tenth of the above estimate.

I should like to emphasize the last cause which the Bureau advanced for the lack of adoption of a more sane system of land registration, e.g., the human dislike to move until there is some immediate necessity. In my opinion, the questions of legal validity and initial expense are insignificant as compared with the lack of

organized effort on the part of farmers and others who are burdened by our present system. It is obvious that those who benefit by the old system will not assist in abolishing it.

Titles are a matter for the states to handle, and here is an opportunity for farmers' coöperative organizations to use organized effort for the long-time benefit of their membership. Also, here is a function for the never-say-die chambers of commerce which wish to make a real contribution to the agricultural industry. It could not be made very dramatic, nor could immediate relief for depressed farmers be promised, but it does give a chance for some long-headed statesmanship.

The Farm Loan Bureau lists the following among other advantages claimed for the new system of title registration:

1. It substitutes an official adjudication of titles for an unofficial examination and gives greater certainty.
2. It avoids the necessity of repeated examination of the same title, thus cheapening the cost of transfer.
3. It renders real estate assets more available, thereby causing them to become more useful and valuable.
4. Its advantages are effected without sacrifice of any advantage which the prevailing system offers and with stability of title and the utmost security to encumbrancers.
5. It provides against the time when the records of transactions affecting land titles under a continuance of the prevailing custom will have become so voluminous as to make the cost of determination of title prohibitive in real estate mortgages of small amounts.
6. It aims to correct a prevailing condition under which the public records affecting titles to lands are, without regulation, coming into private control for all practical purposes.

THE BRITISH POLITICAL DEBACLE IN 1931: A STUDY OF PUBLIC OPINION

BY WILLIAM THOMAS MORGAN
Indiana University

On every hand it was conceded that the election of 1931 was "the most momentous," "the most bitter," "the most sensational," and "the greatest gamble" of the century if not in all British history. Viscount Grey, always cautious, described it as the "most critical and serious election that had ever taken place in our history. It is an election upon which the fate of the whole country depended." Although most British elections of this century have taken place in an atmosphere of fear, in none, perhaps, did fear play so preponderant a rôle as in 1931.

For a score of years the two-party system has been in abeyance. After the political cyclone over the Lloyd George Budget, the balance of power was held by the Irish Nationalists and the Labor party. The war brought a temporary truce from party struggles. When the truce ended in 1922 the Liberals discovered that they were outnumbered in the Commons, not only by the Conservatives, but by the reorganized Laborites, who became the official opposition under Mr. Ramsay MacDonald. The Conservative leader, Mr. Stanley Baldwin, appealed to the country a year later for a mandate in favor of moderate tariffs and found himself without a majority. The reunited Liberals held the balance of power, and straightway brought into office the Socialists, who brought on another election within the year—the third in two years. This election was precipitated by a fear of Russian entanglements, and the outcome was largely determined by the Zinoviev letter. It resulted in a landslide for the Conservatives and political suicide for the Liberals, whose leader, Mr. Asquith, was defeated, although the Conservatives did not contest his seat.

The Conservatives remained in office nearly five years. In the 1929 election they secured fewer seats, and, excluding North Ireland, actually polled fewer votes than did the Socialists. Despite tremendous expenditures on more than 500 candidates, the Liberals elected only 58, although that was sufficient to give them once more the balance of power. They again placed the Laborites in office. Mr. MacDonald's second ministry was most trying, for he had not only to watch the Conservatives, but his own extremists

and his Liberal allies. Although somewhat unsuccessful in diplomacy, he had little to show in the imperial realm, and even less in domestic affairs. Unemployment mounted rapidly until it threatened by the autumn of 1931 to reach 3,000,000.

This increase brought about the bankruptcy of the unemployment insurance fund. As early as January, 1931, Treasury officials warned Mr. Philip Snowden, chancellor of the exchequer, of the danger. He passed on the information to the Commons and to his own party caucus, but did nothing in the April budget to remedy the situation. A month later there was a serious financial crisis in Austria, followed by a worse one in Germany. Despite the Hoover *moratorium*, a billion dollars of credit advanced by London "City" to the Germans was "frozen," and England's creditors began calling in their loans. The significance of these events was exaggerated by sensational pessimistic articles in the popular press, by the gloomy prediction of Mr. Montagu Norman, governor of the Bank of England, and by three reports on economic conditions, of which the last was the May report, published just as the German collapse reached its crisis. To maintain the pound at par, the frightened English financiers borrowed £50,000,000 sterling. Within a week the amount was found insufficient. The City, now panicky, demanded government intervention.

Mr. MacDonald together with Mr. Snowden promptly conferred with the bankers. He then placed the matter before the Economy Committee of the cabinet. This body agreed that the budget, which by the May report showed a deficit of £119,000,000, must be balanced by strict economies and fresh taxes. They did not agree with the financiers, however, that the dole must be cut 10 per cent. The premier consulted the leaders of the other two parties, and found that they agreed with the bankers. The cabinet haggled over the problem for ten days, without arriving at any decision satisfactory at once to international financiers, and the trade unions, the backbone of the Socialist party. The king now intervened, the Labor ministry resigned, and Mr. MacDonald formed a "National" government to save sterling.

The new cabinet consisted of ten men: four Laborites who had remained loyal to Mr. MacDonald, four Conservatives, and two Liberals. Eighty million pounds more were borrowed at once to peg the sterling exchange. Economic conditions refused to mend, despite the rapidity with which the ministry put into effect a new budget with its economies and fresh taxation. This was partly

due to the exasperation of the Socialists. A mere handful of them followed Mr. MacDonald and the remainder attacked the ministerial changes as due to a "bankers' ramp" engineered under his leadership to destroy the Socialist government. They inveighed in measured terms against a government that presumed to call itself "National," when it was in reality Conservative and intent upon introducing tariffs. The pressure brought to bear upon the premier and Mr. Baldwin to support protection lent color to this accusation. The popular organs of Lords Rothermere and Beaverbrook vigorously swelled the chorus, demanding tariffs and an election. In the navy, however, the able-bodied seamen protested in a serio-comic fashion. The fears of foreign creditors increased until the run on English credit became so threatening that the cabinet decided to go off the gold standard.

The Laborites bitterly called attention to some things that their opponents apparently saw fit to ignore. Did not, they claimed, the deputy-governor of the Bank visit the lower house and interview the premier, uttering a "grave warning that the stability of the pound was again imperiled by naval unrest and reports of a general election"? Did he not on the same day, upon declaring the regular semi-annual dividend of 6 per cent, add: "Despite the difficulties through which we are passing we hope when we next meet to be in as good a position as we are today"? The government announced Monday, September 21, that it was going off gold, but the *New York Times* stated that it had been discussed as *un fait accompli* at a White House conference (Washington), the previous Friday. It seems to have been known in the financial circles of Paris and New York as early as Thursday. How much did this "advance information" cost the Treasury? Who allowed the "bears" to profit by it? The Socialist handbook pithily said that the "National" cabinet spent £150,000,000 to enable it "to go off the gold standard in September rather than August." The *Star* (London) caustically remarked that foreign bankers "forced us off the gold standard, but we have gone off with the dignity with which we tried to stay on."

The explanations of Mr. MacDonald, Mr. Snowden, and Mr. Baldwin, in August and in September, differ so fundamentally as to be unconvincing. If there was no reason for fright in September, as all three emphatically declared when England went off gold, their fears in August must have been out of all relation to reality. The Socialist leaders insisted then that the bankers

exaggerated the seriousness of the crisis; now they found proof for their suspicions in the statements of the new government. Many liberals and some Conservatives felt the same way.

The late L. J. Maxse, most independent of Conservatives, who steadily opposed the government's financial policy for the last six years, welcomed the abandonment of the gold standard as

> the best news we have had for six years? [for this], together with a tariff, would restore prosperity and immensely mitigate the running sore of unemployment. . . . This is an absolute "knockout" for the Treasury, the Bank of England, and the entire deflating press.

For thirty years the Conservative right wing, called Diehard Tories by their political enemies, have preached that tariffs and imperial preference would prove sovereign specifics for all Britain's economic ills. Though they forced Mr. Baldwin's hand in 1923, and dragged him down to defeat, they retained their zeal for tariffs. They have the support of the powerful newspaper barons, who have tried all their "stunts" to bring about closer economic relations within the empire. With the assistance of these journalistic *entrepreneurs*, the Diehards tried to oust Mr. Baldwin from the Conservative leadership because he lacked enthusiasm for tariffs, especially import duties upon food.

With the formation of the "National" cabinet their clamor became louder, nor was it silenced when England went off gold, which acted in somewhat the same way as a tariff. The situation was highly embarrassing to Mr. Baldwin and Mr. MacDonald. Mr. Snowden was hostile to tariffs, and free trade had been the very life-blood of Liberal policy for three-quarters of a century. This did not disturb the Tories or the press barons, who continued to urge either tariffs or an election, or both, even after Mr. Snowden warned them that rumors of an election and of a rift in the ministry were largely responsible for abandoning the gold standard. The premier's influence inside the cabinet was small, as very few Laborites supported him. Mr. Baldwin was too good-natured to cope with the Diehards. The majority of the ministry was so slender that its fall could be brought about by the defection of the Diehards. And this they threatened. Already badly divided, to yield on free trade would have been fatal to the Liberals. Furthermore, they were poorly equipped financially, for the Lloyd George fund had been nearly exhausted in 1929. The "National" Labor members of the ministry felt that they should be about

their work of economic reconstruction, as remedial legislation must mark time for at least a month if John Bull went to the polls.

Tariff sentiment has unquestionably grown in the last two years. The great increase in unemployment has made people desperate and willing, accordingly, to try any expedient in the hope of relief. Sir John Simon's conversion to protection caused him to leave the Liberals. Mr. E. D. Simon, Mr. Geoffrey Shakespeare, at one time secretary to Mr. Lloyd George, and Mr. Walter Runciman were other prominent Liberals who had become reconciled to emergency tariffs. Among the Laborites, certain trade unionists, such as Mr. Ben Tillett, had long been convinced that England's salvation lay in closer economic relations with the empire. Certain intellectuals, such as Professor John Maynard Keynes and Mr. G. H. D. Cole, also believed, while sterling was at par, that a moderate, temporary tariff, scientifically administered, might gain England some relief from the high tariffs elsewhere. The dumping of manufactured articles, particularly from Russia, was featured by the popular press.

The Diehards attempted to capitalize this growing feeling in favor of tariffs. Mr. L. S. Amery, one of their high priests, said a fortnight after the small cabinet assumed office that they must prepare "for the imminent election." Mr. Neville Chamberlain, a son of Joseph Chamberlain, also stated that the movement for an emergency tariff had acquired fresh strength by reason of the adverse trade balance but "if we do not get it very soon, we shall not be able to have it at all." Although favorable to tariffs, many prominent men of the City felt that this was going too fast. The correspondent of the *Daily Mail* said:

> Both by callers and messages [Mr. MacDonald] was warned that a crisis in the nation's financial affairs even more terrible than that which preceded the formation of the National Government would result if the evil rumours persisted.

After barely a month in office, the cabinet was split into two equal factions over tariffs, and it was clear that an election was pending. Sir George May had prophesied in July that it would come in October. Meanwhile the Liberals protested against holding an election before the government had scarcely begun the work for which it had been created. Mr. Lloyd George, who was at Churt in Surrey, recuperating from a serious operation, wished to postpone it. George V again intervened. The premier had an

audience with him, as did Lord Amultree, Sir Austen Chamberlain, and Mr. Baldwin twice. An election was decided upon but the time and the issues were left unsettled.

Mr. MacDonald was not favorable to an election, but the political intrigues that went on behind the scenes the first week of October, rivalled anything that England had ever seen, and were altogether, according to the *Spectator*, "a disagreeable tale that is better forgotten." Much concern was felt for the attitude of Mr. Lloyd George. Mr. Winston Churchill, the stormy petrel among the Conservative leaders, who was recently lecturing in America, proposed that the premier and Mr. Baldwin "should drive down to Churt, and there demand from Mr. Lloyd George his powerful aid and counsel in their common difficulties and anxieties." Mr. MacDonald eventually visited Churt, but he was by then too deeply committed in favor of an election and Mr. Lloyd George had taken his stand against an immediate election, or any election that might be utilized to bring in tariffs. The Tory *Morning Post* cynically reported the latter's trenchant remarks on the "frozen penguins of Lombard Street" as his "Magna Churta," from which it appears "that he will be a Protectionist if there is not, and a Free Trader if there is an election."

The premier's announcement of a prorogation was necessarily vague, because the cabinet could not agree upon details. Sir Herbert Samuel, acting leader of the Liberals, was said to be in complete agreement with his chief in opposing an election. October 1 the cabinet sat until a late hour without reaching a decision, although the Liberal members agreed to remain in it rather than disrupt the government. For several days thereafter the ministry sought for a tariff formula or a program for the election. On the third of October it was rumored that Mr. MacDonald was willing to stand down and allow an appeal to the country along party lines. The Diehards likewise claimed that Mr. Snowden and Sir Herbert Samuel, the stubborn foes of protection, would resign in favor of Sir John Simon and Mr. Walter Runciman. The invalid Liberal leader, Viscount Grey, came to London as peace-maker. He implored his own brethren not to insist upon free trade, for in the grave emergency the government must be allowed to utilize any policy best adapted to attain economic stability. He likewise belabored the Diehards for insisting that they should oppose any candidate who would not definitely support protection.

The following day Sir Herbert saw Mr. Lloyd George and came away apparently "unshakeably opposed" to an election. The three leading Liberal organizations passed resolutions thanking their leaders for adhering to free trade, and for resisting the "precipitation of an unnecessary and dangerous general election." Lord Grey's remarks must have influenced the Liberal members of the cabinet, for the next session reached a decision as to a program. The Socialist *Daily Herald* noted:

> The National Government has embarked upon the maddest and most fantastic General Election in Parliamentary History. After ten days bitter wrangling over a tariff formula the Cabinet on the eve of a General Election broke up only agreed—to disagree.

Between the discordant elements in the cabinet compromises were impossible. Eventually the Liberals, and probably Mr. Snowden as well, had preferred to allow the premier to draft his own policy, asking for a "doctor's mandate" or a free hand, rather than agree upon some vague formula on protection. Part of his manifesto ran:

> As it is impossible to foresee in the changing conditions of today what may arise, no one can set out a programme of details on which specific pledges can be given. The government, therefore, must be free to consider every proposal likely to help, such as tariffs, expansion of exports, contraction of imports, commercial treaties, and mutual economic arrangements with the Dominions.

A broader appeal could not have been prepared, although its ambiguity allowed all the various elements in the "National" government to interpret it, each in its own way.

* * * * *

In six weeks Mr. MacDonald crossed not one Rubicon, but three. His formation of the "National" cabinet was the first; the abandonment of the gold standard was the second; and the dissolution of Parliament on October 7 was the third. This last announcement aroused the hostility of the Liberal and Labor leaders. Mr. Lloyd George felt the situation most keenly. He had offered to come to London to facilitate his conferences with the ministry. His proposal was ignored, although Mr. MacDonald visited him the day before the cabinet reached its decision. Mr. F. H. Owen, Liberal M. P., accused the Liberal ministers of the "greatest betrayal in political history," while their leader lay ill.

Mr. Lloyd George was deeply concerned about two things: the financial blunders of the ministry, and squandering upon political intrigues of precious time which should have been spent on constructive legislation. He protested against

> the very reckless way in which great financial concerns . . . utilised French, American, Dutch and other money deposited here to gamble at high rates of interest in advances and guarantees to Germany. . . . After their failure to save the £ the Tory ministers never sat down for an hour to survey the trade balance or think out plans. . . . On the contrary it is clear that [they] . . . took up the whole time and strength of the Cabinet, in manoeuvring for a General Election, which they were convinced would secure them a Tory majority.

The *Manchester Guardian* made light of the attempt to capitalize the word "National." The decision to go to the country as a

> united Government with a disunited policy is so remarkable as to be incapable of a strictly rational explanation. . . . To think or speak of this same Government as a "national" when it has just advertised to all the world its complete inability to agree even upon a face-saving formula. . . —is to misuse language. [It is] . . . a modern political South Sea Bubble fashioned according to a design which will hereafter be promulgated.

The warnings of influential newspapers such as the *Times* were ignored. The Diehards clearly intended to make tariffs the campaign issue. The greatest confusion existed among the Liberals and the "National" Labor leaders on this subject. Mr. Snowden claimed that regardless of the outcome of the election, the new government must secure a new mandate if it wished to abandon the historic fiscal system founded upon free trade. Mr. Neville Chamberlain immediately replied:

> When Mr. Snowden says that this election will not be held on the tariff issue Mr. Snowden is wrong. The party leaders on both sides have made it a tariff election. . . . If the General Election is not to settle this debate, for what purpose is it being held?

Although insisting that the case for tariffs must be clearly justified, Mr. MacDonald agreed with Mr. Chamberlain. With the premier's point of view the *Evening Standard* and the *Daily Express* were in hearty accord, the former featuring the imperial aspect and the latter the protective angle.

Although the Diehards were irrepressible, Mr. Baldwin's manifesto showed that he was anxious to deal fairly with his ministerial colleagues. Early in the canvass the premier accused the

Conservatives of making party capital out of the national distress. The Conservatives protested that they had withdrawn candidates from 50 constituencies which they had a chance of winning. The "National" Labor group replied that they had nominated only 35 candidates as compared with the 500 Conservatives, but had been compelled by Diehard hostility to reduce the number to 25. No less than 10 of these were opposed by Conservatives, two of them being the sitting members for their constituencies, and including even Mr. MacDonald's secretary.

On the other hand, the Socialists accused the Conservatives of financing the "National" Labor canvass. Mr. MacDonald denied this, saying that his fund came from Laborite supporters, and some personal friends. Characteristically he failed to mention the names of these friends, leaving Labor still of the opinion that wealthy Conservatives were financing his campaign. Mr. John Paton, a Socialist writer, bitterly reflected:

> Nothing is more significant . . . than the disciplined uniformity of Tory support for the Prime Minister. . . . Their quiescence springs from a knowledge that they have found the master tool. A tool which they will use and turn to their purposes—and fling on the scrap-heap without a thought when these purposes are served. By making use of a renegade Prime Minister they hope to remain in power for three years.

The Conservatives emphasized protective tariffs (including imperial preference) and economic fear. Except a careful, detailed attack upon the record of the Socialist party while in power there is little else but tariffs discussed in the "Conservative Speakers' Handbook." Mr. MacDonald avoided the issue, except when compelled to discuss it. Three days before the poll he decried the Diehards' clamor for "full-blooded" tariffs. On the same day, however, Mr. Winston Churchill said:

> Neither Mr. Baldwin nor Mr. Ramsay MacDonald will contradict me when I say that the new House of Commons will be absolutely free to set up a permanent general tariff if it thinks it a wise and helpful contribution to solving our difficulties.

The Chamberlain brothers stressed the same point that evening. Sir Austen said: "We want for this reform a national mandate which puts it on a firm basis, gives confidence at home, and lets the foreigner know that this thing has come to stay." Faced by such statements, the premier felt it necessary to reassure his free trade supporters by saying that he believed

> in the honour of my colleagues of all parties. Until the crisis is settled they will not turn a national majority into a party one. If I find the contrary was being done I should be no party to it.

The note of fear was fully as persistent as that of tariffs. All the "National" groups painted in the darkest colors the dangers to be apprehended from another Socialist government. Had not the late government brought the state to the verge of bankruptcy, and then at the dictation of the trade unions run away from the task of balancing the budget? During the Socialist régime, noted the Conservative handbook, every two minutes "three additional workers lost their jobs." Mr. Baldwin claimed that the real issue before the electors lay

> between National coöperation and class warfare—between prosperity and disaster. . . . [If] the polls look like giving a majority to the Socialists on Tuesday you will have a panic in British currency the next morning.

Mr. Garvin thought of the coming poll with great seriousness:

> A wrong result of the British elections would mean the world's worst setback yet. Even a temporary success of the bank-seizing bagmen would send down the pound. Why is the world waiting with tense suspense as it never waited before for the result of a General Election in any single country? The answer is that a wrong result would mean moral and practical misfortune in the whole world's affairs.

Sir Eric Hambro, prominent industrialist, specifically stated that the value of the pound would dwindle "to 10 shillings, and even to 5 shillings." The Bishop of London was, if possible, still more pessimistic:

> The credit of this country is so much shaken, that if the verdict for the country goes wrong to-morrow the £ will fall to five shillings in twenty-four hours, to one shilling within a week, and to a penny in a month.

The *Daily Telegraph* agreed, and the staid and respectable *Morning Post* seemed in its way just as frightened:

> There will be no recovery from the Socialist experiment; the damage can never be repaired. The choice in the election will be final and decisive; and the consequences of choosing ill will be in Viscount Grey's memorable phrase, "disaster, death, and damnation."

Such tactics aroused the ire of the *Manchester Guardian:*

> It would have been dangerous to vote on the direct tariff issue. So we get a campaign of calumny, the assertion repeated in a thousand different forms that money will become worthless, that savings will disappear, and the economic life of the country will fall into chaos if a Labor Government comes into power.

To the Liberal voter the notes of fear and protection were alike objectionable, but the attitudes of his ertswhile leaders left him completely bewildered. The premier's request for a doctor's mandate found the Liberals divided into three uneasy groups. Sir John Simon's faction accepted tariffs without reservations; those still clinging to Sir Herbert Samuel and the "National" manifesto only accepted protection if that policy should, after an impartial examination, be found indispensable; the third group, of which Mr. Lloyd George was the spokesman, opposed all tariffs. Such Liberals as piously hoped for temporary revenue tariffs knew that the Diehards insisted upon permanent protective tariffs. Yet their manifesto stated that "freedom of trade is the only permanent basis for the welfare of the empire and the world."

Upon the formation of the new government, Mr. MacDonald had promised that there would be no coupons at the next election. This was perhaps responsible for the lack of definite promises between its various factions to refrain from fighting each other. Because Sir Herbert Samuel and Sir Donald Maclean, Liberal ministers, positively refused to support tariffs without reservations, the Tories decided to contest their seats. This brought a definite rebuke from Mr. MacDonald and a mild reproof from Mr. Baldwin, which disturbed the Diehards not in the least. Sir H. Page-Croft, a Diehard leader, described the political confusion:

> I feel considerable sympathy for Darwen Liberals, whose brains must reel in trying to follow the gyrations of Sir Herbert Samuel as he leaps daily from the company of Mr. Lloyd George to Mr. Ramsay MacDonald, from fanatical free trade to an "open mind," from support of the National Government with its "free hand on tariffs" to a manifesto declaring that the "freedom of trade is the only permanent basis for our economic prosperity." . . . This weathercock has never ceased to wobble.

The Liberal organization was in a sad state: a party split into factions with an empty treasury. A large proportion of their potential candidates expected the central organization to defray half their expenses, but little was available beyond Mr. Lloyd George's fund and he refused to back candidates who would accept tariffs. The manifesto of Mr. Ramsay Muir, chairman of the

party machine, urged the Liberals to fight Conservatism in every constituency where by so doing they would not seat a Socialist. Bitter protests arose from the Conservatives and his own puzzled followers. Mr. Baldwin called upon Sir Herbert to explain this document. He replied that it had been prepared before the cabinet had agreed upon the doctor's mandate, and that he had not seen it prior to its publication.

No love was lost between the Simonites and Samuel, who referred to Simon's "tortuous leadership." The Conservatives also fought Maclean tooth and nail, and he received cold comfort from his appeal to Mr. Baldwin for fair play. He stated:

> I have been a . . . Free Trader all my life. I intend to remain so. At the same time in this national emergency . . . there is nothing I will not examine with an impartial mind. . . . In the words of the Prime Minister, we exclude nothing. . . . I say quite definitely to the whole hierarchy of Toryism. . . . The Liberals of North Cornwall will not bow down to the golden image they have set up, whatever the consequences.

Liberal headquarters also had difficulty with Mr. Lloyd George's supporters. Mr. Lloyd George's political adviser and chief of staff, Colonel ———— Tweed, resigned as a protest against the colorless party manifesto. Colonel Tweed favored fighting every constituency in which the Liberals held the balance of power, but Mr. Muir had apparently deleted from the colonel's draft of the manifesto the words "every Liberal seat should be fought," handing over in Tweed's estimation, the majority in the Commons to the Conservatives. Mr. Muir replied that, lacking funds to fight many constituencies, they concentrated upon the most promising ones.

Mr. Lloyd George accused the "National" government of precipitating an election, "the most wanton and unpatriotic into which this country has ever been plunged." He invited Mr. Arthur Henderson, the Socialist leader, to visit him at Churt, and "full and cordial conversations" took place. This occasioned much fluttering in the Conservative dovecotes. It was rumored that Mr. Lloyd George had made a substantial contribution to the Labor campaign fund. The Socialist candidates also withdrew from the constituencies contested by the Liberal leader and his daughter, although Mr. Lloyd George denied that there was any pact with Labor.

The war premier, nevertheless, broadcasting a few days later, attacked the "National" program, advised his supporters to vote for the Socialists who supported free trade. The *Scotsman* (Edinburgh) commented editorially:

> It is evident that he meditates a new career. He certainly hopes to belong to them. . . . We could wish them no more appropriate a leader, and him no more congenial a cause.

The same pious hope had already been expressed by the *National Review* and by the *Northern Whig and Belfast Post* (Conservative), which reported that some thought

> that before long the old Liberal leader will be at the head of the Socialist party and that Saturday's meeting may prove to be a step in that direction. . . . If the Socialist love for Mr. MacDonald could turn to hate so quickly, there is no reason why their hate for Mr. Lloyd George should not turn to love.

Some of the Welsh statesman's former colleagues were deeply pained by his stubbornness. An old friend, Mr. J. L. Garvin, likened him to Samson tugging at the pillars of the temple. Lord Grey took direct issue with him, although he feared that the Conservative insistence upon protection might bring about a Socialist victory or a doubtful issue. On the other hand, Mr. Lloyd George's stand was applauded by the *New Statesman and Nation*, which felt that he would have a considerable following, by the *Manchester Guardian* and by the *Contemporary Review*. All three periodicals felt that if the Liberal ministers had stood firmly for free trade there would have been no election at this time. Mr. Lloyd George's emphatic stand seems to have been a matter of principle. Even the *Times* circulated the rumor that he had been offered one of the highest offices in the "National" government. Upon his refusal to be a party to a tariff "ramp," the ultra-popular press, which had been unusually friendly for a decade, turned upon him. The *Daily Express* described his voice as falling to a whisper in his broadcast when he mentioned tariffs, although that portion of his prepared speech was actually omitted in broadcasting. His quip that Sir John Simon "had sat so long on the fence that the iron had entered his soul," suggests that he was in good fighting trim.

None of the Liberals seemed satisfied except the Simonites, whose satisfaction was due to the fact that they had, in direct contradiction to the premier's statement, provided for coupons.

Although Mr. MacDonald had promised to oppose all such projects, he did nothing, at least openly, against the candidates sponsored by Sir John. The withdrawal of the Samuelites in nearly 300 areas amounted to a pact with the Conservatives. Before the dissolution the *Observer* advised the Conservatives to find safe seats for the "National" Labor candidates and the *Times* felt the Conservatives should forego some 70 seats for "National" Liberals and Laborites. The *Manchester Guardian* severely criticised the Conservative behavior:

> There have not been coupons on the 1918 model, there has been instead a species of blackmail levied upon almost every candidate whose first instincts were not Protectionist.

Although relations among the various groups supporting the "National" government were embittered, all save Mr. Lloyd George's followers sought to defeat the Socialists. The Labor group were exceedingly hostile to their former leaders, who in their estimation had betrayed them. The trade union attitude is illustrated by the remarks which Mr. E. Bevin addressed to Mr. MacDonald:

> Why did you not govern? Why did you not bring forward your proposals, however distasteful they were to your own people in . . . Parliament, and let the nation decide, and not negotiate a National Government behind the backs of your colleagues, your own people knowing nothing about it?

In the face of a most disappointing record made during their ministry, Labor pleaded that they were never in power, and that their constructive measures were either emasculated in the Commons by Liberals or defeated in the Lords by Diehard peers. Throughout the canvass and in their manifesto, they made much of the circumstances accompanying the overthrow of their government:

> The Labor Government was sacrificed to the clamor of bankers and financiers. Because it placed the needs of the workers before the demands of the rich, a so-called National Government was installed. . . . The policy of that Government has proved a disastrous failure. Formed to maintain the gold standard which it declared in panic-stricken accents to be an indispensable condition of national safety, within less than three weeks it had abandoned that standard with the insolent explanation that industry would benefit by the change.

Starting with the conception of a bankers' conspiracy, the Socialists insisted that the "credit system of the country can no longer be left in private hands. It must be brought directly under national ownership and control." Nothing in Labor's program gave greater offense to the Diehards, who utilized it as a means of frightening the voters. Another manifesto was sponsored by Mr. Bevin and Mr. Cole:

> Our choice lies between a world dominated by the bankers and financiers, whose puppets our present rulers are, and a further attempt to establish Socialism at once . . . [the] complete socialisation of the Bank . . . and the joint stock banks, and full public control over the remaining parts of the financial machine.

The Independent Labor Party's manifesto maintained that "the key industries and services and the land . . . must be brought under national ownership and direction."

The Conservatives and other national groups emphasized the great danger of inflation under a spendthrift Socialist régime, under a class-conscious government which had abandoned the policy of "gradualness" for that of "immediacy." The *Scotsman* spoke of their manifesto as "surely the most fantastic and impractical document that any presumably responsible political party ever put its name to." Mr. Garvin called it the "worst electioneering ramp in democratic history, the worst jumble of economic fallacy with electoral corruption." Mr. Walter Runciman felt constrained to say that if the Bank "ever steps into the political arena, it will mean the end of the City of London as the financial centre of the world."

The Socialists, however, pointed to the unfair system of taxation, and the inequality of sacrifice exacted by Mr. Snowden's new budget. The jobless lost 10 per cent of their dole; those with incomes of £10 a week paid only 4 per cent more taxes; those with £100 a week 3 per cent more; whereas even those liable to the super-tax paid only 5 per cent more. Despite the severe depression, they continued, 100,000 persons still paid the super-tax which remained surprisingly steady in amount.

The Conservative accusation that the Labor leaders ran away from their duty proved highly efficacious. No one, however, made better use of it than Mr. Snowden, the most potent figure in the election. He flayed his former colleagues for resigning in the hour of danger. He claimed that they had sanctioned pratically all the economies necessary for balancing the budget while in

cabinet meetings, but retreated from their stand at the dictation of the trade unions. Far from being the party of free trade, he maintained, they had agreed in the cabinet to a 10 per cent tariff, and the late Mr. William Graham had even favored food taxes. The trade union congress, he said, had been drifting towards protection for years, and a month before the elections became imminent, was actually preparing a tariff program. In his broadcast and in articles in the sensational press, Mr. Snowden pilloried his former colleagues as hypocrites, cowards, and "little Lenins." Their manifesto was "Bolshevism run mad." His gift for vituperation amounted to a genius, and was so applauded by the popular press that he was inspired to further efforts. The *Observer* remarked:

> No such concentrated power of personality has been known in public life since the war. His broadcast . . . was the most pulverising of all the broadcasts. He was a flail. . . . In this fray Mr. Snowden has been the man with the battle-axe.

Sober-minded journals, however, looked askance at his efforts. The *Northern Whig* conceded that he was easily the most powerful force in the election, but felt that some of his exposés were in doubtful taste. The *New Leader* castigated him in measured terms:

> Philip Snowden is worthily earning his promotion to the star "stunt" journalist of the *Daily Mail*. As the *Manchester Guardian* remarks . . . "the peculiar malignity of the apostate towards those from whom he has parted is the constant theme of the historian." From the concentrated malice and venom of his attacks not only upon his former colleagues, but on all he has hitherto stood for, there has been, fortunately, no equal in our modern politics. He presents an indecent spectacle. He is not content to defile the nest he helped to build, but he must proceed to give the lie to all that he has stood for in his life.

Although the Conservative press featured Mr. Snowden's attacks upon his former colleagues, their spirited replies, definitely raising the question of veracity, received little attention. Mr. Bevin said:

> If Mr. Snowden has spoken the truth he ought to be impeached. If the Chancellor really meant what he said, then he had gone to the House of Commons in March last with a presumedly-balanced budget to mislead men on the back benches. . . . Mr. Snowden has not been man enough to publish the evidence. . . . The Trade Union

> Council did not try dictation on the Labour Government. Eight weeks before—and I challenge contradiction of this—one of the three who left us was canvassing the press in Fleet Street for a National Government.

The writer examined nine different daily papers during the election period, but found no evidence that any replies were ever vouchsafed to these pointed accusations.

Mr. Snowden also sneered at "Labour and the Nation," the official exposition of the Socialist program for the 1929 election, by saying that he had never read it through. Mr. Henderson replied that Mr. Snowden was actually one of the committee that drafted it, and when it was in semi-final form he was assigned the task of condensing a part of it. The *Daily Herald* published photographs of portions of the manuscript containing Mr. Snowden's emendations and headings. Other newspapers apparently ignored the question of veracity here raised. The pamphlet in controversy contains only 50 pages in the revised edition. Mr. A. A. Baumann, one of the most stimulating English journalists, was disturbed about the constitutional effect of Mr. Snowden's actions:

> The prestige and utility of Cabinet government are destroyed forever by these revelations. The power of Cabinets depended largely on their secrecy. How can there really be any free and confidential discussion, still less any rapid and bold decisions, if the members of the Cabinet know that minutes are being kept, which may be used against them?

The *New Statesman and Nation* vigorously attacked Mr. Snowden's record as chancellor of the exchequer in the Labor government:

> Mr. Snowden's unbalanced and envenomed utterances are likely to damage rather than forward the cause of the National Government. We have indeed heard . . . nothing but regret and indigation that the man who is more than any other responsible for our present situation should turn and rend the colleagues whom he has led into disaster; that . . . [he] should now describe the very proposals which he sponsored . . . as "Bolshevism Run Mad." . . . He introduced a budget which failing honestly to face the facts outdid the worst efforts of Mr. Churchill. As a result the Government, which he has misled and persistently kept in the dark—Mr. Snowden had access to facts and figures denied to his colleagues—was confronted with a demand for economies which were opposed to their whole policy and philosophy. And this is the man who now turns and reviles them!

Unquestionably Mr. Snowden must share the responsibility for the financial crisis that occasioned the overthrow of the Labor Government and the abandonment of the gold standard. Mr. H. N. Brailsford, a brilliant Socialist writer, is quite definite in his accusation:

> From first to last under Philip Snowden's guidance, the Labour Government had been in the grip of the City. . . . It dared not mobilize credit to set the unemployed at work. It was preparing in the end to adjust the whole economic life of the country to suit the requirements of the moneylender's trade. Labour was in office: the Bank of England governed.

Sir Oswald Mosley also felt that he showed far too little concern for the jobless, and far too much for the *rentier* who received 26 per cent of the national income in 1924, and 35 per cent in 1931, because he "has been the flunkey of the bondholder and banker ever since he became Chancellor."

While Laborites emphasized the dangerous power exerted by the financial octopus, the "National" candidates painted lurid pictures of economic ruin for everybody, particularly the poor, if the Socialists won. While others carefully prepared the ground, Mr. Runciman really exploded the bombshell under the electorate, and was probably most responsible for the unexpected result of the poll. The idea he exploited was in the minds of Conservative leaders from the beginning of the campaign. "Fighting Points for Conservatives" maintained that the Socialists, "by abolishing capitalism, would ruin all who had saved and put their savings by. Keep your savings secure by keeping the Socialists out." Saturday, October 24, Mr. Runciman said that by July last a substantial part of the assets of the Post Office Savings Bank

> had been lent to the insurance fund, and that brought home to the Cabinet the difficulties, with which they would be faced if a serious distrust of British credit set in. I cannot say how much was lent —except that it was considerable—or whether it has been repaid.

This statement, coming the week-end before the poll, compelled the attention of the 10,000,000 poor people holding £300,000,000 in Post Office Savings, who now feared for the safety of their small deposits. Several of the Conservative papers as well as the sensational press worked up a panic by insisting that if the Socialists triumphed, the pound, government securities, and Post

Office Savings would follow the route of the German mark. Without attempting to determine the truth of Runciman's statement, the *Daily Mail* blazoned forth on Monday, October 26:

> Every penny of every small investor's savings would be endangered by a Socialist victory. The money so painfully put by to meet sickness or misfortune would vanish, with disastrous results to millions of humble homes.

The *Northern Whig* also featured the danger of these savings and accused the Socialists of leaving these depositors to their fate when they resigned in August. Another popular organ came out with the headlines: "YOUR HOME! YOUR LIVELIHOOD! YOUR SAVINGS AT STAKE!"

Three members of the late Labor government, including the Postmaster General, retorted that if these savings were in danger they were never so informed by the chancellor of the exchequer. An investigation indicated that Mr. Runciman's statement was one of those half-truths that are frequently more damaging than falsehood. Mr. Snowden borrowed from these savings to cover the cost of the dole, but such a custom was usual among government departments. Mr. Churchill took £23,000,000 from these savings for the same purpose during his administration; Mr. Snowden continued the practice. Yet Mr. Snowden was now reinforcing the attacks of Mr. Runciman!

Mr. Henderson replied to Mr. Runciman, but the time was too short, and his statement received scant courtesy from the ultra-popular newspapers, that had exploited the original speech:

> The statements of Mr. Runciman and Mr. Snowden . . . are simply an attempt to alarm the electors at the eleventh hour. The money of the Post Office Savings Bank's depositors has at no time been in danger. No investment in the world enjoys greater security. It is guaranteed by the State whatever Government may be in power. For any reasonable person to cast doubt upon the security of these funds, or . . . the integrity of a British government . . . is to strike a dangerous blow at British credit both at home and abroad. The security of the Post Office Savings Bank deposits was never threatened in the slightest degree by the Insurance Fund.

The mischief had been done. No amount of explaining could relieve the masses of the fear that the Socialists had needlessly, if not recklessly, endangered their slender savings. So great a newspaper as the *Times* said editorially the morning of the poll

that a Socialist success would mean a run on the Post Office Savings and the millions of pounds deposited in the Bank of England. A Liberal journal maintained that "of all the stunts of the election by far the most discreditable was the canard about deposits in the Post Office Savings Bank."

* * * * *

The canvass was a quiet one. There was too much bitterness for the usual amenities of an English election. Neither candidates nor voters were in a joking humor. Since both Mr. MacDonald and Mr. Thomas persisted in fighting their old constituencies, some disorder might be expected at their meetings, but even here the Englishman's love of fair play was in evidence. At Derby, Mr. Thomas dared address a meeting of 1,500 unemployed, and he was "cheered so heartily that what had begun as a hostile gathering ended as a triumph." A few days later he was not allowed to begin a speech at Liverpool. At one of his Derby meetings, some of the crowd kicked his shins and spit in his face. At Nottingham he was compelled to accept a police escort. The premier's meetings started off noisily, but gradually he won over his political enemies, although in two mining villages he was refused a hearing.

Sir Oswald Mosley, founder of the "New" party, encountered much difficulty. At Birmingham he addressed 15,000. Despite the presence of a bodyguard of boxers and rugby football players, the meeting was most tumultuous. Chairs were thrown and one person was knocked unconscious. Sir Oswald and his escort suffered minor injuries. It took nearly a hundred policemen to clear the hall. Lord Beaverbrook, the press magnate, also had trouble in some places. When he appeared at the Limehouse (London), the crowd drowned out his voice by singing the "Red Flag," and knocking over chairs, whistling, singing, and stamping. After more than 20 minutes, Lord Beaverbrook was permitted to talk. At Glasgow pandemonium "broke loose when Beaverbrook tried to speak. Hecklers made it impossible to hear more than a few minutes at a time."

Several other places reported considerable disturbances. Sir Robert Horne, the financier, abandoned his attempt to speak in Glasgow. Mr. D. Kirkwood, the radical Laborite, was shouted down at Greenock, nearby. Leith complained of rowdyism. In Lanarkshire both the Conservatives and Socialists called off some

meetings because of organized Communist activity. The Conservative candidate for North Portsmouth cancelled his meetings on account of disturbances. He later, however, held one with the assistance of the United Services Football Team. Noisy meetings were held at Bristol, Galgate (Lancaster), and several of the London suburbs. Undergraduates at Cambridge took a hand in the meeting at the Guildhall, where tomatoes and eggs were much in evidence. At Birkenhead a fight took place between the supporters of the Conservative candidate and a group of unemployed. In the melee the candidate was injured and carried unconscious from the hall. The chairman also suffered slight injuries. At a Conservative meeting in Liverpool two of the speakers were injured by stones. At Blackburn, during the excitement of a 20-minute free fight, two women fainted near the speakers' table. At Kensington, stink bombs broke up a meeting. At Sheffield, however, an enterprising Conservative candidate scored over his interrupters by using a loud speaker, which drowned out all their noise.

The lighter touch of the political campaigns of the past was lacking. One elector, however, after receiving the campaign literature of all the candidates for his constituency, said: "Ee well, what I ses to meself is, thank th' Lord theer's nobbut yan o'them can get in." Another elector is reported as saying: "Of course, Socialists I have no use for, but Labour—we're all Labour. We all work, don't we? So I shall vote Labour." The *News Chronicle* characterized it the repudiation election:

> Mr. Neville Chamberlain repudiates Mr. Snowden; Mr. Snowden repudiates Mr. Henderson; Mr. Henderson repudiates Mr. MacDonald; Mr. Lloyd George repudiates Mr. John Simon; Sir John Simon repudiates Mr. Lloyd George; Lord Beaverbrook repudiates Sir Herbert Samuel; Sir Herbert Samuel repudiates Lord Beaverbrook and Captain Graham; the *Times* repudiates Sir Henry Page Croft; Sir Henry Page Croft repudiates all Liberal Free Traders, all Protectionist "wobblers" and the *Times;* Lord Stonehaven repudiates the *News-Chronicle;* Mr. Maxton repudiates everybody, and therefore takes the interim prize.

The writer encountered one apt fragment of election verse,

> MacDonald fell beneath the spell
> Of Tories sly and hearty;
> Whate'er his loss, he must be boss,
> And so he lost his party!
> He looked around, surveyed the ground
> And found things rather warm, Sir.
> He said, "Well, well, this is a sell!
> And swallowed Tariff Reform, Sir."

As the canvass progressed, the belief increased that the "National" government would receive a popular mandate. The Conservatives had 517 candidates; the Socialists, 514; National Liberals, 123; Liberals, 37; New Party, 23; National Labor, 21; Miscellaneous, 26; Unopposed, 65; Total, 1326 candidates. There were 410 straight contests whereas the 1929 election had only 94. Two years earlier there were 444 triangular contests as against 99 in 1931. They had the smallest number of three and four cornered fights in twenty years. At the beginning of the campaign the Stock Exchange offered a majority of 170 for the "National" government, which gradually rose to 200. A week before the poll, the *Evening Standard* estimated the majority at 195, giving the Conservatives 340 seats. The *Observer, Daily Telegraph, Daily Mail,* and *Manchester Guardian* were less optimistic, but all agreed on a clear Conservative majority. Yet none of them had a glimmering of the real result; not even the most optimistic Diehard came within one hundred and twenty-five votes of the Conservative strength. It was a "landslide," a "Socialist massacre." The Conservatives secured 472 seats and the Laborites 52. The *National Review* reported that Labor "lost 213 seats largely by colossal margins. . . . You can walk from Land's End to John O'Groats without striking a single [Labor] constituency." Thirteen of the Labor cabinet were defeated, including Mr. Henderson. The Laborites were left leaderless and Mr. Lloyd George without a party. It seemed an unrelieved disaster for the Socialists, but it was truly Armageddon for the Liberals. It was a great individual triumph for the "National" leaders, particularly Mr. MacDonald, Mr. Thomas, Sir Herbert Samuel, and Sir Donald Maclean. Fifteen women out of sixty-one were successful, all of them Conservatives, except Miss Lloyd George. The Duchess of Atholl, the Countess of Iveagh, and Viscountess Astor were again returned. The popular vote indicated widespread interest in the issues of the day. The Conservatives secured about twelve million votes, the Socialists over seven million, and the Liberals less than three.

It is easier to recount the figures than to account for the result. The English voter, nonchalant as he appeared, really voted in an atmosphere of fear, of fear for the safety of his savings and his job. The Socialist failure to solve the unemployment problem was also a powerful factor in their defeat, but it does not account for their bitter humiliation. The Labor ministry had, according

to Mr. Jack Jones, witty Socialist member of Parliament, disgusted thinking people by going "a bit of the way with everybody." The results were a convincing proof that the English people are not class-conscious. The women probably turned the tide so overwhelmingly against the Socialists, because they were more easily frightened than men by the possibilities of inflation and danger to their deposits in the Post Office Savings Bank. Yet they showed it but little. A newspaper correspondent complained: "I don't understand you British. Here is all the arithmetical evidence of a panic election. Yet there's nothing panicky in your people." The unemployed failed to rally to Labor, which fought a cut in the dole, despite the fact that the first payment of the reduced benefit came just before they voted.

Mr. Baldwin felt that democracy had more than justified itself:

> The nation has won a great and decisive victory. There is no party victory . . . the electors have declared in no uncertain voice that the insiduous doctrines of class warfare cannot make headway against the desire for national coöperation at a time of national emergency. . . . The workers throughout the country have put their trust in the National Government. We must not fail them . . . [for] the welfare of the workers is dependent upon the manner in which we carry out our work.

The *English Review* looked upon the results in an even broader way:

> It is a sensational vindication of the character of the people—a no less sensational condemnation of the past cowardice of the great majority of our politicians. Right up to the day of the poll, the majority of the politicians of all parties were frightened of the issue. . . . Yet what has happened has only proved once more the oldest of all political truisms, that you only divide a nation by appeals to cupidity, and that you invariably unite it by an appeal to self-sacrifice. . . . The people have asked as never before for firm and vigorous leadership. If they are disappointed, they will not ask again.

The premier made a significant appeal to the working classes:

> But I appeal for forbearance as well as confidence. . . . To my political friends, who have suffered such unusual reverses, and especially to those who . . . backed our appeal and helped to swell our victory, I give the assurance that our triumph will in no way mean that . . . the interests of the working classes will be overlooked.

A *Daily Mail* editorial carried that appeal a step farther:

> We believe that our opponents will learn the lesson which the election had to teach and take their reverses like Englishmen. The right example has been set by Mr. Henderson, who in this contest has known how to maintain his dignity and secure the respect of his opponents. In this crisis we should put this question to our former adversaries, Will you come over and help us in the task of restoring our country to prosperity?

Even the *Morning Post* conceded that it was "no party verdict since it is national in its scope and in its intention."

The *Manchester Guardian* could not view the results with its usual equanimity:

> The shortest, strangest, and most fraudulent election campaign of our times is over. . . . The electorate has been swept by panic and fear. By the side of the scare about the pound, the cry of "Hang the Kaiser" and the Zinovieff Red letter appear almost respectable. The display of worthless German marks—one of Mr. MacDonald's theatrical gestures—the scare about the postoffice savings bank deposits, and the solemn warnings of leaders like Stanley Baldwin and prelates like the Bishop of London that within a few hours, if Labour won, British money would be worthless will seem as foolish in the future as the wise utterances of the politicians who vowed to squeeze the Germans until their pipes squeaked.

The *Daily Herald* was in better spirit than might have been expected, but Mr. Brailsford bewailed the breakdown of the machinery for representation, and the "incapacity of great masses of the electorate for sober thought." The Socialists secured one-third of the total vote, and elected one-twelfth of the Commons; the people feared for the safety of postoffice savings, but voted for Mr. MacDonald and Mr. Snowden, who were mainly responsible for the danger.

Some concern was also felt for the constitutional issues involved in the ministerial revolution and the election. Professor H. J. Laski reflected on these aspects of the canvass:

> The implications of this Conservative position are that a party which may command the assent of an electoral majority cannot carry its principles into effect out of fear of what the investing public may do. It must accept . . . that theory of social action which suits the demand of finance—capitalism. . . . But this is an announcement that finance-capital will not permit the ordinary assumptions of the constitution to work if these operate to its disadvantage.

Mr. Leonard Woolf questioned the constitutionality of the actions of the king who invited Mr. MacDonald to organize a new ministry and encouraged him in dissolving Parliament:

> It is said that the King personally induced Mr. MacDonald to do this. If so, he was doing something which may prove highly dangerous to the Crown. For in effect, he was making an individual Prime Minister though he had no support for his Government in the House of Commons except by a process of camouflage and jugglery.

In other quarters there was considerable speculation over Mr. MacDonald's future. The Labor leaders persisted in thinking of him as Ichabod:

> So fallen, so lost, the light withdrawn
> Which once he wore
> The glory from those gray hairs gone
> Forevermore.
> Of all we loved and honoured naught
> Save power remains,
> A fallen angel's pride of thought,
> Still strong in chains.

Mr. MacDonald had stated repeatedly that he hoped to destroy the Liberal party. The Liberals helped the Conservatives in 1924 and were almost destroyed; they did the same seven years later, and their end as a party seems at hand. Mr. MacDonald has, temporarily at least, been almost equally successful in annihilating the party he helped to organize. Whatever the future has in store for him, he must rank ahead of Sir Robert Peel as a wrecker of parties. Peel ruined only his own party, whereas his Scottish prototype has destroyed the effectiveness of two. There he stands in Parliament today, a great leader without a party. His days of testing are not over, and his ministry is not likely to be either long or happy, although so far the Diehards have scored little against him.

If the Conservatives should force Mr. MacDonald from the premiership, the blow may be softened by a peerage and his appointment as Viceroy of India or Ambassador to the United States. Then the Socialist chorus might well chant from Robert Browning's "The Lost Leader":

> Just for a handful of silver he left us,
> Just for a riband to stick in his coat—
> . . . . . .
> He alone breaks from the van and the freeman,
> —He alone sinks to the rear and the slaves!
> We shall march prospering,—not through his presence;
> Songs may inspire us,—not from his lyre;
> . . . . . .

Blot out his name, then, record one lost soul more,
One task more declined, one more footpath untrod,
One more devil's triumph and sorrow for angels,
One wrong more to man, one more insult to God!
Life's night begins; let him never come back to us!

LEGISLATIVE APPORTIONMENT IN OKLAHOMA

BY LIONEL V. MURPHY
University of Oklahoma

The Oklahoma state constitution provides that representation in the two houses of the legislature shall be apportioned according to population and that there shall be a reapportionment at least once in each ten-year period. The Constitutional Convention (1907) made the original apportionment. In conformity to the constitution, the legislature has passed an apportionment act after each Federal census, namely, 1911, 1921, and 1931, but in doing so it has not fulfilled all the requirements of the constitution. While the membership of the House of Representatives has been promptly reapportioned,[1] the State Senate still remains as it was fixed by the Constitutional Convention twenty-five years ago, despite the fact that there has been an increase of 1,000,000 inhabitants and a great shift in centers of population.

The Senate consists of "not more than forty-four members,"[2] except that if any county by virtue of its population becomes entitled to more than two senators, these additional senators are to be in excess of the forty-four provided for by the constitution.[3] In districting the Senate membership, the constitution provides that at each senatorial apportionment after 1910 the State shall be divided into fourty-four senatorial districts, each selecting a single member. Districts must be as nearly equal in population and as compact as possible, and must consist of contiguous territory.[4]

Until an apportionment for the Senate was made by the legislature, the Constitutional Convention divided the State into thirty-three districts, of which eleven districts elected two senators.[5]

---

[1]In 1931, the legislature allotted each county, regardless of population, one member in the House of Representatives despite the constitutional provisions for non-populous counties. *Constitution*, Art. V, Sec. 10d and 10f.

[2]The term is four years, and one-half of them are elected every two years.

[3]*Constitution*, Art. V, Sec. 9a. That provision is apparently contradictory to another one within the same section regarding the districting of the State into 44 districts, "each shall contain as near as may be an equal number of inhabitants." However, the legislature has never given any county more than one senator.

[4]*Ibid.*

[5]*Ibid.*, Sec. 11. Every district with two senators contained two or more counties.

No reapportionment of senators has yet been made except the creation of one additional district (34th) in 1919,[6] and the transfer of a county from one district to another in two instances.[7]

Just why no reapportionment of senatorial districts was made in 1911 is not apparent, unless the legislature were of the opinion that, because of its position in the constitution,[8] the provision for a decennial reapportionment applied to the House of Representatives alone. The language of the provision, however, clearly indicates the contrary.[9] It is of interest to note that two of the three reapportionment measures have originated in the Senate. The last act was a House measure.

The following tabulation shows the senatorial districts by number, the population of each in 1907, 1920, and 1930, respectively, and the number of senators allotted each:

---

[6]*C. O. S.* 1931, Sec. 3378 (S.L. 1919, Ch. 121, Sec. 2).

[7]The first instance is the taking of Washington County from the 30th district (leaving Tulsa County) and joining it with Osage County to make the 34th district in 1919. The other is the transferring of Cherokee County from the 30th district to the 28th district in 1931. *S. L.* 1931, Ch. 19, Art. 1, Sec. 1.

[8]See *Constitution*, Art. V, Sec. 10.

[9]See Blachly, F.F., and Oatman, M., *The Government of Oklahoma* (Oklahoma City, 1924), p. 38.

No. of Districts	Population 1907	Population 1920	Population 1930	Senators
1	43,628	39,082	38,721	1
2	58,294	53,734	66,946	2
3	30,022	30,602	32,889	1
4	23,624	27,097	34,116	1
5	29,956	44,574	53,300	1
6	62,729	64,057	86,582	2
7	30,377	28,679	27,434	1
8	28,300	37,500	45,588	1
9	57,777	50,986*	64,336	1
10	31,310	32,695	35,021	1
11	40,387	92,661	101,020	1
12	30,711	27,550	27,761	1
13	80,965	79,435	100,310	2
14	75,959	138,297	249,853	2
15	53,661	68,152	98,417	2
16	35,237	31,546	36,412	1
17	63,587	95,654	80,220	2
18	49,284	65,795	63,468	2
19	52,377	71,159	77,724	2
20	53,563	69,968	58,331	2
21	34,018	26,631	54,080	1
22	35,590	51,096	59,350	1
23	37,844	54,757	102,090	1
24	38,883	87,563	73,645	1
25	37,677	52,570	50,778	1
26	31,816	36,799	24,108	1
27	72,007	107,511	107,560	2
28	32,202	40,489	51,731†	1
29	26,019	35,989	35,935	1
30	36,977	74,848	53,912‡	1
31	34,506	109,532§	187,574	1
32	33,891	76,392	78,986	1
33	25,938	33,504	32,567	1
34	———	63,565‖	75,111	1

*Osage County (population 1920, 36,536) was transferred from the 9th district in 1919 to form with Washington County the 34th district.

†Cherokee County (population 1930, 19,872) was transferred from the 30th district to the 28th district in 1931.

‡The decrease in population is due to the transfer of Cherokee County to the 28th district in 1931.

§There was a great increase in population in the 31st district, yet Washington County (population 1920, 27,002) was transferred from it in 1919 and with Osage County it formed the 34th district.

‖The 34th district composed of Osage and Washington counties was established in 1919.

According to the census of 1930, Oklahoma had a population of 2,396,040. With 44 senators this would make an average of a little over 54,000 inhabitants to each senator. It is impossible to secure an exact equality in the population of legislative districts due to the constitutional recognition of counties in their establishment, yet, in all fairness, such districts could and should be established within a minimum of the average, either above or

below. On the basis of average population per senator (1930) six single member senatorial districts range from 48,000 minimum to 60,000[10] maximum and three two-member senatorial districts range from 98,000 to 107,000.[11] However, there are ten[12] two-member senatorial districts which ranged from 58,331 to 249,853 in population and of which six[13] fall unduly below the average for a two-member district. All of these 10 districts are overwhelmingly Democratic. Of the six which are unfairly below the average, four have never elected anyone but Democrats and the other two elected each a Republican in 1920, and one of these two chose a Socialist in 1914.[14] Of the four districts which are either average or above, three are average and have been overwhelmingly Democratic since statehood except in 1908, 1918, 1920 and 1928, when the Republicans elected a senator in two of the districts during those years.[15] The most populous district having 249,853, elected a Republican senator in 1908, but none since then.[16]

There are eleven single-member senatorial districts which are too far below the minimum average, ranging in population from 24,108 to 45,588, and seven which are above the maximum average varying in population from 64,336 to 187,000. Of the eleven districts below the minimum average, one is normally Republican, two strongly Republican, two solidly Republican, three strongly Democratic and three solidly Democratic. Of the seven districts above the maximum, two are normally Republican, two normally Democratic, one strongly Democratic and two solidly Democratic.[17]

---

[10]The 5th, 21st, 22nd, 25th, 28th, and 30th districts compose, relatively, the average single member districts.

[11]The 13th, 15th, and 27th districts compose, relatively, the average two-member districts.

[12]There were 11 two-member districts until 1919.

[13]They are the 2nd, 6th, 17th, 18th, 19th, and 20th districts.

[14]The 2nd district elected a Socialist in 1914 and a Republican in 1920; and the 6th district elected a Republican in 1920.

[15]The 15th district has elected none but Democrats; the 27th district elected a Republican in 1908, and the 13th district elected a Republican in 1908, 1920, and 1928.

[16]The 14th district includes Oklahoma City and contains two counties, Canadian and Oklahoma.

[17]The least populous district is solidly Democratic; the next is solidly Republican, and the three most populous are either solidly or strongly Democratic.

It is not out of place to illustrate some of the very glaring inequalities of the senatorial apportionment which is long out-of-date. For instance, the twenty-sixth district (Johnston-Marshall) has a population of 24,108 while the thirty-first district (Tulsa) has 187,574, though each has one senator. As to two-member districts, the twentieth district (Atoka, Bryan, and Coal) with a population of 58,331 has equal representation with the fourteenth district (Canadian-Oklahoma) which has 249,852! There are several other districts which exhibit similar glaring inequalities.

Furthermore, other inequalities in representation, due wholly to legislative manipulation, exist in senatorial districts. It is by legislative enactment that, in certain senatorial districts, nominations, in certain election years are to be made from certain counties comprising these districts but, however, they are elected at large.[18] Regarding the fourteenth district (Canadian population, 28,115 and Oklahoma population, 221,738) it is required that the candidate must be a resident of the county in which he seeks nomination.[19] Obviously this is done to preserve rural influence in the legislature.

The House of Representatives has had three apportionments, 1911, 1921, and 1931. The constitution provides, until otherwise changed by law, that the House of Representatives "shall consist of not more than one hundred and nine members who shall hold office for two years."[20] The legislature as required by the constitution has reapportioned at the first session after each decennial Federal census.[21]

The method of apportionment for the House of Representatives is somewhat mathematically gymnastic. Representatives are apportioned among the counties of the State in accordance with a rather complicated system of "ratios." The constitution provides that "the whole population of the State as ascertained by the Federal census or in such manner as the Legislature may direct, shall be divided by the number one hundred and the quotient

---

[18]These districts are the 14th, 15th, 17th, and 27th, which have had nominating districts designated within them at various sessions of the legislature.

[19]*C. O. S.* 1931, Sec. 3384 (S.L. 1917, Ch. 184, Sec. 3).

[20]*Constitution*, Art. V, Sec. 10.

[21]All legislative apportionments are subject to the veto of the governor just as are other bills, and may be reviewed by the Supreme Court at the suit of any citizen, under such rules and regulations as the legislature may prescribe. *Ibid.*, Art. V, Sec. 10i and 10j.

shall be the ratio of representation in the House of Representatives for the next ten years succeeding such apportionment."[22] Under such a provision, the 1930 population (2,396,040) when divided by one hundred, the quotient (23,960) so obtained constitutes the "ratio of representation" for the apportionment period. An apportionment period is a legislative session covering two years of a decennial period. To illustrate, the third apportionment "begins the 16th day after the general election in November, 1932, and ending the 15th day after the general election of 1942 shall, unless otherwise provided by law, constitute a Decennial Legislative Period, and the said period is hereby divided into five (5) legislative periods or sessions of two years each."[23]

Furthermore the constitution provides that "each county having a population equal to one-half of said ratio (1930 ratio is 23,960) shall be entitled to one representative; every county containing said ratio and three-fourths over shall be entitled to two representatives, and so on requiring after the first two an entire ratio for each additional representative."[24] This simyply means that each county will have according to the ratio as determined by population representatives for each of the five legislative periods, within a legislative decennial period.[25] However, the provisions thus far mentioned do not take care of counties whose populations do not fall within the named ratios. Thus the constitution provides that "when any county shall have a fraction above the ratio so large that being multiplied by five the result will be equal to one or more ratios, additional representatives shall be apportioned for such ratio among the sessions of the decennial period. If there are two ratios, representatives shall be allotted to the fourth and third sessions, respectively; if three the third, second, and

---

[22]*Constitution*, Art. V, Sec. 10c.

[23]*C. O. S.* 1931, Sec. 3393. The first legislative or apportionment period will end November, 1934; the second, November, 1936; the third, November, 1938; the fourth, November, 1940; and the fifth, November, 1942.

[24]*Constitution*, Art. V, Sec. 10d.

[25]To ilustrate: A county having a population of 12,000 (one-half the ratio) would have one representative for each of the legislative sessions elected in 1932, 1934, 1936, 1938, and 1940. A county having a population of 42,000 (one and three-fourths ratios) would have two representatives for each of the legislative sessions.

first sessions, respectively; if four, to the fourth, third, second, and first sessions, respectively."[26]

Such a provision gives counties whose populations are in excess of the ratio additional representatives in certain or all sessions of the legislative decennial period. However, the constitution provides that "no county shall ever take part in the election of more than seven representatives."[27] At the present time, two counties (Oklahoma and Tulsa) have a population so large that they now, if they should be given their just share of representatives based on population, would exceed the constitutional limit of seven representatives for each legislative session.[28]

There are several existing inequalities in the House of Representatives as provided for in the 1931 apportionment act. Constitutional provisions were ignored in several cases. For instance, Kay County, with a population of 50,106, and Republican, has two representatives for each legislative session while Stephens (33,069), Pontotoc (32,469), Ottawa (38,542), McCurtain (34,759), Bryan (32,277), Comanche (34,317) and Garvin (31,401), all of which are strongly Democratic, have two representatives for each legislative session. Moreover, Kay County (50,186 and Republican), has two representatives, while Pittsburg County (50,778 and Democratic) has three members for each session. Beckham County (28,991 and Democratic) has the same number of members in each legislative session as Payne County (36,905 and Republican). Lincoln County (33,738 and Republican) has two members in three sessions, and one in the other two, while Pontotoc County (32,469 and Democratic) has two in all the sessions!

---

[26]*Constitution*, Art. V, Sec. 10e. To illustrate the working of this provision: A county having a population of 60,000 would after the ratio is applied have an excess of 36,040 (60,000—23,960). This excess is multiplied by 5, which in this instance is (36,040 × 5) 180,200. Hence, when 180,200 is divided by the ratio (23,960), the quotient is 7 and a remainder. Thus, this county is entitled to seven additional representatives, one to be given to each of the legislative sessions of the decennial period. Summarizing, this county would have with the regular allotment and additional representatives at the legislative sessions: 1932, 2; 1934, 2; 1936, 3; 1938, 3; and 1940, 2.

[27]*Constitution*, Art. V, Sec. 10d.

[28]The 1931 reapportionment act gives seven representatives each to Oklahoma and Tulsa counties for each legislative session for the decennial period. Were it not for the constitutional limit of seven representatives for each legislative session, Oklahoma County would have nine in each session and Tulsa County eight in some of them.

Even among the Democratic counties, Beckham County (28,991) has one more representative in the third session than Kiowa County (29,630)!

A county whose population is insufficient to entitle it to one member is attached to an adjoining county to form one representative district.[29] Nevertheless the 1931 apportionment ignored the constitutional insufficiency of population and gave such counties one representative each.[30] There were eight counties which fell below the one-half ratio as required by the constitution.[31] Only two counties fell below the 1921 ratio and they were attached to other counties.[32] Of the eight counties which fell below the 1931 ratio, six had lost heavily in population and four of them were, politically, solidly Democratic. The remaining four are normally Republican.

In determining nominating districts for counties which have two or more members for each session, the legislature has been inconsistent. Some counties have nominating districts designated while other do not.[33]

The constitution provides that legislative apportionments shall be made at the first session of the legislature after each Federal decennial census and that the districts thereby created are to remain unchanged for ten years. Nevertheless the legislature has seen fit to change frequently district boundaries.[34]

The legislative apportionment does not, of course, constitute the major ill in Oklahoma politics, however, it does at times block certain movements in state politics which give hopes of better government. It likewise has promoted movements that have been ruinous to the State. Above all, Oklahoma needs a complete survey in governmental structure, with provisions that will recruit a better personnel in politics than the State has enjoyed in the past.

---

[29]*Constitution*, Art. V, Sec. 10f.

[30]The act provided the following number of members in the lower house: 1932, 118; 1934, 122; 1936, 117; 1938, 115; and 1940, 120.

[31]The counties are: Cimarron and Harper, Beaver, Ellis, Coal, Love, Latimer, and Marshall.

[32]The Republicans controlled the lower house in 1921. The two counties were Cimarron and Harper.

[33]See *C. O. S.* 1931, Sec. 3394.

[34]See *S. L.* 1913, Ch. 13 and 71; *S. L.* 1917, Ch. 183, 184, and 185; *S. L.* 1919, Ch. 121 and 289; and *S. L.* 1925, Ch. 141. The legislature has never vitalized the constitutional provision permitting the review of apportionment acts by the Supreme Court at the suit of any citizen.

THE TREATMENT OF THE DEPENDENT UNEMPLOYED IN ST. LOUIS IN THE WINTER OF 1931–32

A Community Case Study

BY FRANK J. BRUNO
Washington University, St. Louis

I. *Introduction.*—The discussion which follows deals with the structure of social work in St. Louis, so far as it is concerned with the relief of the unemployed.

St. Louis has no public outdoor relief. The only exception is the administration of a generous state provision for blind relief and a very niggardly mothers' allowance. Neither has any appreciable effect upon the problem of unemployment.

Of all the large cities in the United States, St. Louis is unique in having but one relief-giving agency serving the entire community—the Provident Association. It is one of the oldest organizations of its sort in the country, undertaking what is now called family welfare work. It is a private agency, managed by a self-perpetuating board of directors, and has been supported, up to the present time, practically without any aid from tax funds in the more than 70 years of its existence. Whether because it is old and has great local prestige, or because it has been ably led, or merely because of the inertia of potential competitors, it has occupied the entire field of family social work in St. Louis since its inception, and the community has become accustomed to look to it for the leadership and the thinking in the relief program of the city.

There are, of course, other agencies dispensing relief—which is only one of the functions of family welfare—in the St. Louis area. In St. Louis County, the County Welfare Association occupies the same relative position in its territory. In the city of St. Louis the Red Cross functioned as the family agency for families of disabled ex-soldiers of the Great War; the Jewish Federation, with its accustomed skill, treated its dependent group, and the St. Vincent de Paul Conferences took care, in a much less complete manner, of the members of Roman Catholic parishes. The Salvation Army occupied the indefinite region usually taken by that organization. Closely associated with this group of relief and family agencies, the Bureau for Homeless Men was created

as late as 1926 to attempt to treat the transient, unattached man on a case work basis.

The policy-making body for all these agencies is the St. Louis Community Council, the companion federation to the Community Fund, which is the money-raising body. The council is an alert, modern, and able leader in formulating and guiding social work policy and administration. Next to New York City it is probably the most successful coöperative experiment in social work planning in this country.

II. *The Onset of Unemployment.*—The foregoing outline shows the organization of relief and family care as of January 1, 1930. This was two months after the stock market crash brought the amazing prosperity of the previous seven years to a sudden end, but some time before the full effect of the dependency resulting from a long priod of unemployment began to be felt. For instance, the case loads and the amounts spent for relief by the Provident Association in St. Louis in the Januaries from 1929 to 1932 bring out how little the picture was affected in January of only two years ago:

	Case Load	Relief
January, 1929	2212	$ 22,642
January, 1930	2913	26,871
January, 1931	3705	41,626
January, 1932	8396	128,699

During the year 1930 there were no changes in organization, though the agencies struggled with increasing loads. The Community Fund reached its goal in the fall of 1929, so that the 1930 allotments to the agencies were somewhat increased over the former year. In the summer of 1930, however, the Provident Association was forced to close its doors to all new applications in order to conserve its resources for the overload which it saw approaching in the winter months. No serious results, however, seemed to ensue from such a policy. The Provident Association as the only general relief agency had never been able adequately to handle the entire relief load of the city, and at such a time as this it simply drew more tightly its lines of exclusion. Childless couples and old folks were the principle types for which it could not care. The pressure on the other agencies was not so great. The Jewish group has throughout enjoyed a comparative immunity from the worst effects of the depression. The nature of its work protected the Red Cross from a sudden increase, while

the other agencies could refer their overloads to the Provident Association, with the exception of the Bureau for Homeless Men, which felt the weight of the blow among the earliest and had to do the best it could unaided.

III. *The Creation of the Citizens' Committee on Relief and Employment.*—By the winter of 1930–31, however, it was apparent that although the Community Fund had again reached its goal, raising a quarter of a million dollars more than in the previous year, the resources were entirely inadequate and the city would have to be asked to contribute out of its tax funds.

As the emergency grew more acute the mayor of the city was induced to appoint a Citizens' Committee on Relief and Employment with authority to study the situation and to recommend measures for meeting it. The personnel which had so ably led the destinies of the Community Council was successful in getting a non-political, socially informed committee appointed by the mayor. It proved to be a body which took its job seriously, and was able to carry the mayor and the city government with it in all its plans. This accomplishment is all the more significant since the mayor and the city government have never been on good terms with the Community Council or its agencies.

From the time of its appointment, the committee took over from the Community Council the leadership in planning that portion of the social work of the city and county which had to do with relief, and has retained it in its own competent hands ever since. In this connection it would not be entirely just to ignore the influence of the Federal government. President Hoover's national committee on unemployment in the winter of 1930–31 passed on to states, and through state bodies to every considerable locality, some sound advice on local organization for handling the new problems, such as the use of already existing agencies, the value of the social worker, the importance of a responsible, capable central planning body, and other equally pertinent suggestions. Just how far this influence reinforced the position taken by his committee and prevented the mayor from attempting to control it for his own ends will never be known. It can safely be predicted that no one will see the correspondence he received from state and Federal authorities on that subject. But, however it came, his coöperation has been complete and constant.

The committee, semi-public in character, had the task of devising ways and means of retaining the excellent *esprit de corps*

existing between the agencies and of inventing new means of meeting the increasing load as the agencies showed signs of breaking.

IV. *Financial Support.*—After negotiations with the city comptroller, who is the czar of city finances, the committee learned that the municipal authorities were not willing to set up a supplementary relief organization for the care of the unemployed, as some of the larger cities subsequently did. They agreed, however, to vote money to the committee for that purpose, and it was finally decided that the city would match dollar for dollar any special money the committee might raise by private subscription. A tentative total of $700,000 was agreed upon for the year, of which the city appropriated $300,000 on December 13, 1930. With this the committee proceeded to operate until about March, 1931, when a drive for private contributions was put on and $350,000 was secured, which with $150,000 more appropriated by the city on July 1, 1931, was sufficient to finance the extra relief load due to unemployment through the calendar year of 1931.

Meanwhile plans for the fall campaign of the 1932 Community Fund were being formulated. After consultation with the Citizens' Committee, it was jointly decided to combine the special drive for unemployment relief (which would be matched by city money) and the regular campaign for the Community Fund agencies into one effort. Instead of $350,000 in contributed funds, which had been deemed sufficient for 1931, it was decided to secure $750,000 by private subscriptions, thus insuring a total of $1,500,000 from combined private and public funds for this extra cost of unemployment relief for the year 1932.

The regular needs of the Community Fund agencies were fixed at $2,250,000, which, added to the $750,000 sought by the Citizens' Committee for unemployment relief, made a grand total of $3,000,000 to be raised in the combined campaign. It was agreed that the Citizens' Committee should receive 25 per cent and the Community Fund 75 per cent of whatever sum should be secured. The result was little short of a tragedy for the Community Fund. Only $2,400,000 was raised, of which $1,800,000, or $400,000 less than the previous year, was available for the agencies in the Community Fund, while the Citizens' Committee received $600,000 instead of the $750,000 expected. With the completion of the joint campaign in December, 1931, the question arose as to how the city should meet its pledge to match the sum secured

by the Citizens' Committee. Many of the city authorities were willing to see special taxes levied for the purpose, but others, including the mayor, dreaded the unpopularity accruing to the proponents of "nuisance taxes" which were the only kind possible to be levied. Instead, therefore, of meeting the city's obligations out of the public treasury, the mayor decided to put on a campaign of his own for additional private subscriptions. He created a new citizens' group called the Crisis Committee, its goal being to raise the $600,000 shortage suffered by the joint campaign. The Crisis campaign was concluded early in February, 1932, having secured, not $600,000, but $1,100,000.

Meanwhile the fact had completely dropped out of the discussions that $450,000 out of the $600,000 shortage from the joint campaign had been sustained, not by the Citizens' Committee, but by the Community Fund agencies. The entire amount secured by the Crisis Committee was handed over to the Citizens' Committee with promises that it would be further supplemented as tax funds became available. This promise was made good in part by an appropriation of $150,000 on January 18, and of $100,000 on February 10. Up to the time of the writing of this paper, however, the city had not adopted any adequate plans for raising the remainder of its share from tax funds.

The Citizens Committee thus became the disbursor not of $1,500,000, made up equally from public and private funds which was its original goal for 1932, but of $1,700,000 from private sources and potentially an equal amount from public. The Community Fund, meanwhile, was obliged to absorb its $450,000 deficit for the maintenance of other forms of social service than unemployment relief. Funds for this latter purpose, however, are in hand or promised by the city for a whole year in advance for the first time since 1929—that is, if the city can make good its part of the bargain to match every private dollar with one from tax funds.

V. *Administration.*—The Citizens' Committee has had a number of functions which it entrusted to sub-committees. The work of the sub-committee on finance has just been discussed. Others upon employment, public works, and so on have functioned at various times but have now lapsed into inactivity.

The Sub-Committee on Relief, which has taken the lead in planning the relief program, has been, however, continuously active.

It first decided that so far as possible no new agency would be created, and that all work should be routed through those already in existence.

To further this program the Relief Committee established a joint application bureau, to which all new applicants for work of relief were sent where, after a careful interview, they were allocated to the appropriate agency, according to their need as disclosed by the interview for work alone, for relief alone, or for work and relief.

Only in the absence of a suitable existing agency for dealing with a particular problem did the Relief Committee in two instances create a new agency or bureau. An employment bureau was developed at the application center, with the advice of three representatives of the private non-fee charging employment agencies of the city, and a special Bureau for Women created in May, 1931, to care for the increasing numbers of women living alone who were no longer able to maintain themselves. This bureau was placed under the same direction as the Bureau for Homeless Men.

The second major decision of the Committee was to meet all the expenses of the coöperating agencies, due to the increased load of unemployment, which were in excess of the Community Fund allotments of 1931. Excess expenditures were liberally interpreted as covering relief, salaries of additional workers, or rent of extra office space. Agencies were reimbursed at the end of each month on the presentation of vouchers from the funds of the committee, as long as they lasted, and later by city warrants issued after certification by the committee.

In routing work to the agencies, a flexible policy was adopted. As already mentioned, the Jewish agency felt the effect of unemployment less than other agencies, and on its expressing willingness to accept additional work, certain colored applicants were at first assigned to it. A plan was later developed whereby that agency takes all applicants from a certain area. Similarly, the Salvation Army and the Red Cross have enlarged their scope to include types of applicants which they have not hitherto accepted.

A certain amount of supervision of the work done was incidental to this function of allocation. This has resulted in bringing a degree of pressure on certain agencies which may hasten the reorganization of outworn or inadequate methods more promptly

than could have been brought about by many years of persuasion or example.

In addition to the Relief Committee itself, which consisted of seven prominent citizens familiar with the relief situation in St. Louis, a sub-group called the Technical Committee was appointed, composed of the executives of the coöperating agencies, with the chairman of the Relief Committee acting as its chairman, and the general manager of the Provident Association as its secretary. This sub-committee meets once a week to decide on policies and allocation of work and to define relationships and assemble estimates as to the volume of the work and its cost.

VI. *Miscellaneous.*—St. Louis has not attempted a large amount of work relief, as some cities have done with success. There is question in the minds of its leaders as to the value of such a program, at least as it had been worked out up to the present. A small and carefully protected work relief project was carried on in St. Louis last year, but its results did not seem sufficient to warrant the time and money necessary to develop the program on a larger scale. It is possible that the attention of the committee was so closely fixed on the other methods which it worked out for dealing with unemployment that it did not give sufficient attention to this new and interesting development in other cities.

It should not be concluded that the Citizens' Committee has been able to bring under its supervision all efforts to relieve distress in St. Louis. There remains outside its sphere of influence a number of efforts in the nature of breadlines, soup kitchens, and lodging houses which, though they may lack the stamp of official approval, nevertheless show a persistent vitality.

One of the most interesting is called Welcome Inn, a center for distributing discarded or donated foodstuffs from the commission houses and hotels, which is growing into a sizeable and certainly a very aggressive charity, and one to which a number of prominent society women are devoting a good portion of their time, to their own benefit, at least. It is almost the only project of any size brought into existence by this depression. Some of the missions and homes for transient men have blossomed out into new prominence and at least one into enlarged usefulness.

A serious defect in the present community plan is the non-participation of the Roman Catholic agencies. Up to the summer of 1931 they were represented on and coöperating with the Citizens' Committee. When the joint campaign with the Community Fund

was decided upon, the Roman Catholic agencies felt it necessary to withdraw. They put on a drive just before the joint campaign and with the money so secured the activies of the St. Vincent de Paul Conferences have been strengthened, and the other charities of the church enlarged. No statement of the amount of money raised by the church has been made public. In March, 1932, an abandoned hospital owned by the church and housing 400 has been fitted out as a men's lodging house and is working in close coöperation with the Bureau for Homeless Men.

VII. *Conclusion.*—The plan described above has secured as efficient organization for the care of the dependent unemployed as has yet been worked out in any city; it has assured to all such dependents a means of securing food, clothing, medical care, fuel, and, in most instances, rent; it has saved the community from duplication of effort with a minimum of referral from one agency to another; and it has used the skill of social workers in the most advantageous manner possible.

Beyond the development of new skills in the handling of a greatly increased number of applicants, and the specializations made possible by the different agencies to which allocations were made, the committee has tried no other ways of dealing with the unemployed. It has failed to take advantage of the device of work relief, by which, even though it is more costly, the recipient of aid has a chance to give something in exchange for the assistance he receives, and therefore has an opportunity to save his self-respect. While more money has been raised from private gifts for all charitable purposes than was originally asked for by at least $500,000, the non-relief-giving agencies in the Community Fund have been badly crippled. Ground has also been lost through the withdrawal of the Catholic group, as well as by the substitution of the Citizens' Committee for the Community Council in the leadership of community planning. Those in charge of social work in the city believe the cost has been small in view of the large gain, and, with respect to the apparent loss of council prestige, they point out that the leaders in the Citizens' Committee are all council members. There is a strong conviction that the remarkable success of the Citizens' Committee in developing a city-wide plan, and in securing the instant coöperation of all the necessary people and agencies in working out its endless details under the stress of overwork and community hysteria is largely due to the habits of coöperation learned under the leadership of the Community Council.

THE NATURE AND GENERAL PRINCIPLES OF RECOGNITION OF DE FACTO GOVERNMENTS

BY N. D. HOUGHTON
University of Arizona

Governments are said to be either *de jure* or *de facto*, and though the two concepts may be perhaps clear enough in the abstract, yet, when an attempt is made to apply the concepts and definitions to concrete political situations, difficulties may be encountered.

The legal and regularly constituted government of a state is called a *de jure* government, while a *de facto* government is one which is actually in control of political affairs in a state or a section of a state; though it may have been set up in opposition to the *de jure* government. But if a *de facto* government makes good its pretentions to power by completely displacing the authority of the *de jure* government, it may come to be considered as *de jure*. In that event, the determination of the exact time when it ceases to be a *de facto* government and comes to be *de jure* may be difficult. And, in the absence of any device of international organization with authority to make the determination, it is left to the governments of foreign states to determine the matter for themselves largely on the basis of the national policies of the various states, with the result that the situation is frequently attended with considerable confusion and uncertainty.[1]

As suggested above, there are two kinds of *de facto* governments. One kind is that which exists when a revolutionary element expels the reguarly constituted authorities from the public offices and establishes in their places its own functionaries, so as

---

[1]The *de facto* government frequently, in such cases, takes steps to secure some sort of approval or acquiescence of the people, thus giving itself more or less regularity, by an election or by the promulgation of a new constitution, or both.

Wheaton says: "A *de jure* government is one which, in the opinion of the person using the phrase, ought to possess the powers of sovereignty, though at the time it may be deprived of them. A *de facto* government is one which is really in possession of them, although the possession may be wrongful or precarious." *International Law*, 5th ed., p. 36.

See also Moore, *Digest*, Vol. I, p. 41, and Willoughby, *Fundamental Concepts of Public Law*, pp. 178, 370, 371, 377.

to represent in fact the sovereignty of the state.[2] This type of government is sometimes called a *general de facto* government. The other kind is called a *local de facto government.* Its authority extends not over the whole area of a state, but over only a section of it. A local *de facto* governmnet may be maintained,

1. by an enemy country making war against an invaded state, or
2. by a revolutionary organization within a section of a state which resists the authority of the *de jure* government with the purpose of separating from the parent state and establishing an independent state, or
3. by a revolutionary faction within a section of a state which is resisting other factions contending for national control.[3]

Nature of the Problem of Recognition

Whether a *de facto* government is one which has displaced a *de jure* government or is a local *de facto* government, if it seeks to become a permanent government, it is confronted by the problem of securing recognition as a *de jure* government by other governments. For *de jure* governments will enter into official diplomatic relations only with such governments as they recognize as *de jure* governments; and although it is possible, as will be pointed out later, to carry on communication and negotiation with an unrecognized government, yet such intercourse is necessarily somewhat cumbrous and unsatisfactory.[4]

It should be understood that a *de facto* government may exist, and usually does exist for a longer or shorter period, without securing political recognition by other governments in any form. Thus, a *de facto* government may exist as an *unrecognized de facto government.* Or it may be recognized by other governments simply as a *de facto* government. Or, it may be recognized by other governments as the *de jure* government of the state over which it exercises control. This *de jure* recognition[5] is the solemn act necessary to establish official diplomatic relations between

---

[2]See Moore, *Digest,* Vol. I, p. 44. See also *Williams v. Bruffy,* 96 U.S. 176 (1878).

[3]See Borchard, *Diplomatic Protection of Citizens Abroad,* pp. 206, 207.

[4]See *infra.*

[5]Also spoken of as *full* or *complete* recognition. Unless expressly stated otherwise, the term *recognition* will be used in this paper to mean *de jure* recognition.

governments, and to entitle a new state to exercise fully all the international rights to which members of the society or nations are entitled.

Now, what actually happens often, at least in the early history of a *de facto* government, is: (1) that some states may refuse, or at least fail, to grant any sort of recognition, whatever; (2) that, other states may recognize it as a *de facto* government, and; (3) that some states may recognize it as a *de jure* government. Thus, the political status of a new government at any given time is determined by each foreign state for itself; and there may sometimes be little uniformity in their attitudes.

A *de facto* government may find that at least some foreign governments, for a time at any rate, will not grant any sort of recognition. Now, as between the new government and such foreign governments, the new government is simply an *unrecognized government.* Of course, foreign governments must *realize* and *accept* the fact of the *existence* of such a new government, just as individuals must do. Its existence is a matter of definite fact, just as the existence of the physical features of the state is a fact. In that sense, foreign governments must always recognize a new government. But mere realization or acceptance of the fact of the existence of a *de facto* government does not constitute political recognition in any form whatever. In fact, as indicated above, foreign states may actually communicate and have specific dealing with a *de facto* government, and yet not, by so doing, grant any sort of recognition, not even recognition as a *de facto* government.[6] Recognition of a *de facto* government simply as a *de facto* government is a specific aspect of the recognition problem, and as such will be further discussed at a later point in this article.

Recognition of a *de facto* government may, or may not, involve recognition of a new *state.* If the *de facto* government is a government set up by a seceding[7] section of an old state, then full recognition of *de facto* status constitutes recognition of the independence of the new state.[8] However, the government of a state is distinct from its person. A state is continuous

---

[6]See above note 4. See also Moore, *Digest*, Vol. I, pp. 206 ff., 235 ff.

[7]The separation need not be by force. Thus Brazil was quietly recognized as an independent state by Portugal in 1825. Norway and Sweden quietly separated in 1905. Lawrence, *Principles of International Law*, 6th ed., p. 89.

[8]See *Actes de la premiere Assemblee de la Société des Nations*, 1920, plenary sessions, p. 645.

through changes of its government. In a case, then, where a *de facto* government displaces a *de jure* government in a state which has once been recognized as a member of the family of nations, the state continues; and recognition of such a *de facto* government does not involve recognition of a new state.

There is substantial agreement among recognized authorities on international law upon the principle that a *de facto* government has no *legal right* to recognition.[9] This doctrine holds that recognition is a purely political act; that every state may recognize or refuse to recognize a new government as it sees fit, without being under necessity of accounting for its action to other governments, who may or may not approve its action in so doing.[10] There is, however, a somewhat different view of the matter of the right of recognition of a *de facto* government in a new state. Hall says that a politically organized community enters of right into the family of nations. He agrees that the commencement of a state dates from its recognition; but he maintains that a new state has the *right* to be recognized, though he admits that recognizing states have the privilege of judging when this right has been *earned*.[11] So that, though there may be some technical question as to the matter of legal right to recognition, yet there is no question but that, practically speaking, states have the power to recognize, or refuse to recognize, new governments as they see fit.

---

[9]See, for example, Hershey, *Essentials of International Public Law*, pp. 115, 116; Oppenheim, *International Law*, 3rd ed., Vol. I, pp. 135, 404; Stowell, *Intervention in International Law*, p. 448; Fiore, *International Law Codified*, p. 150.

[10]It is pointed out that Great Britain recognized the new government at Naples in 1860 while King Francis II still hoped to defend his crown with the aid of military forces at his command; but that on the contrary Great Britain delayed to recognize the United States until 1782, though France had done so in 1778; and the United States refused to recognize the independence of Hungary in 1849. Fiore, *op. cit.*, p. 146.

See also: *The Penza*, 277 Fed. 91 (1921); a statement of Mr. Justice Cardozo of the New York Court of Appeals in *Sokoloff v. National City Bank*, 239 N.Y. 158 (1924); 25 *Harv. Law Rev.* 608; Anderson, C. P., 19 *Am. Jour. Int. Law*, 166; Garner, J. W., "Limitations on National Sovereignty in International Relations," 19 *Am. Pol. Sci. Rev.* 7, 8; Pillet, 5 *Revue General de Droit International Public*, 86; Dupuis, *Le Droit des Gens et les Rapports des Grandes Puissances* (1920), p. 488, and the opinion of Hon. W. H. Taft in the British-Costa Rican Arbitration of 1923, *Fallo Arbitral*, p. 14.

[11]Hall, *International Law*, 7th ed., p. 82. See also 20 *Am. Jour. Int. Law*, 543, for a similar point of view as to a *de facto* government in an old state.

Methods of Recognition

There is no single, prescribed, and universal form of recognition of new governments. On the contrary, there are many methods. Recognition is given either *expressly* or *tacitly*. If a new government formally asks for recognition and receives it in a formal declaration of any kind, it receives *express* or *formal* recognition. On the other hand a state may *tacitly* and indirectly recognize a new government by entering into official intercourse with it. This may be done by sending or receiving a fully accredited diplomatic envoy,[12] or by concluding a treaty with the new government, or by entering into any kind of relations with the *de facto* government such as are only entered into with recognized *de jure* governments.[13] Express recognition may be given by an individual state directly to a *de facto* government, or it may be given by an international congress[14]

Since recognition is a matter of policy rather than of law, an old state, or a group of such states, may impose certain conditions upon a new government when it is recognized. This is called *conditional* recognition.[15] The new government so recognized is morally and legally bound to carry out the condition. If it fails to do so, the other state or states may resort to intervention to compel compliance with the accepted conditions.[16] And, in cases where refusal, on the part of a conditionally recognized government, to observe the conditions might not justify intervention or war, it certainly would justify protest, suspension of diplomatic relations, and perhaps reprisals.[17]

---

[12]However, it would appear that the sending and receiving of a diplomatic official may not always constitute recognition of a government as a *de jure* government. The United States and the Carranza government exchanged ambassadors in March and April, 1917, though the United States did not recognize the Carranza government as *de jure* until August 31, 1917. See *For. Rel.*, 1917, pp. 915, 943, 1042, 1043 ff.

[13]See Oppenheim, *op. cit.*, p. 135.

[14]Greece was recognized by the Conference of Constantinople in 1832; Roumania, Servia, and Montenegro at the Congress of Berlin in 1878; Belgium by the Treaty of London in 1831. Fiore, *op. cit.*, p. 148.

[15]Roumania, Servia, and Montenegro were recognized by the Treaty of Berlin of 1878 on the condition that they should not impose any religious disabilities on any of their subjects. Lawrence, *op. cit.*, p. 89.

[16]Oppenheim, *op. cit.*, pp. 136, 137.

[17]Hershey, *Essentials of International Public Law*, p. 117.

Acts Short of Recognition

It is more or less essential that governments carry on communications with one another. And, it may become more or less urgent that an old government communicate with an unrecognized *de facto* government. But there are difficulties involved in such communication. And there are difficulties involved in an effort to carry on any sort of communication with a *de facto* government in a new state, which are not encountered in communication with a *de facto* government in an old state. In the first place, there has been no legation established in the new state, since it has not yet become a member of the society of nations. And, to send an accredited diplomatic representative to a *de facto* government may be interpreted to constitute recognition of the government, and the independence of the state.

It is possible, however, to carry on certain communications, even with a *de facto* government of a new state, short of recognition. And so long as such communication is "unofficial" in character, it need not imply recognition. Communication with a *de facto* government may be conducted by means of special agents, the sending of whom does not constitute recognition.[18] Special agents may be sent in order to secure information, or for any purpose which does not involve formal diplomatic intercourse. They are sometimes used by a foreign state which sees fit to demand protection for the lives and property of its nationals within the jurisdiction of a *de facto* government, and for communication and negotiation with the *de facto* authorities.[19]

In 1919, the British Foreign Office made the following statement to the Admiralty Division in regard to the status of the Provisional Government of Northern Russia, into the territory of which the British government had sent a special agent, and from which there was then in England a special agent:

> As the title assumed by that government indicates, it is merely provisional in nature, and has not been formally recognized either by His Majesty's Government, or by the Allied Powers, as the government of a sovereign independent state. His Majesty's Government and the Allied Powers are, however, at the present moment coöperating with the Provisional Government in the opposition which that government is making to the forces of the Russian

---

[18]See Moore, *Digest*, Vol. I, pp. 206 ff.

[19]See *For. Rel.*, 1913, pp. 818, 821–827; Sen. Doc. No. 285, 66th Cong., 2nd Sess., Vol. II, p. 3121; *For. Rel.*, 1917, pp. 313, 321, 324, 332–337. See also Hyde, *International Law*, Vol. I, pp. 64, 65.

> Soviet Government, who are engaged in aggressive military operations against it, and are represented at Archangel [capital of the Provisional Government] by a British Commissioner. The representative of the Provisional Government in London is Monsieur Nabokoff, through whom His Majesty's Government conducts communications with the Archangel Provisional Government.[20]

The British courts held that this statement did not indicate that the Provisional Government of northern Russia had been recognized by Great Britain.

Persons may be sent into the territory, which is under the jurisdiction of a *de facto* government, to act in a consular capacity without implying recognition, provided exequaturs are not accepted. In 1810 President Madison sent the Poinsett mission to Buenos Aires with the title *Agent for Seamen and Commerce in the Port of Buenos Aires.* The next year the title was changed to *Consul General.* President Monroe followed this practice on a larger scale, but refused to grant exequaturs to consuls from the South American countries, thus avoiding recognition.[21] In 1823 Great Britain sent consular agents to the South American Republics. The various governments were informed that the appointments had been made for the protection of British subjects, and to secure information which might lead to the establishment of relations. But these consular agents were not commissioned. The earliest complete recognition by Great Britain of a South American state occurred in 1825.[22]

As has been noted, the problem of communication with *de facto* governments in old states is less difficult. For, throughout the life of a state, there exists in theory a government, exercising supremacy over its territory and competent to deal with its foreign relations. In case of internal conflict for the control of the reins of government, there must always be in legal contemplation a *de facto* authority with which foreign states may hold informal intercourse. Occasion for such communication may arise from various situations, such, for example, as the necessity for foreign states to demand that protection be accorded to the persons and property of their nationals, and also that rights be observed which have been accorded them by treaty with a former government.[23]

---

[20] *The Annette; The Dora* [1919] L.R. 105 (1919).

[21] See Hershey, A. S., 14 *Am. Jour. Int. Law*, 508. See also Paxson, *Independence of the South American Republics*, ch. 2.

[22] Moore, *Digest*, Vol. I, p. 206.

[23] See Hyde, *International Law*, Vol. I, pp. 75, 76.

When, in an old state, there occurs an internal struggle for the control of the government, foreign states may continue to keep their agents of intercourse within the territory, even after the government to which they are accredited has been displaced by a *de facto* government. And such action need not imply recognition of the *de facto* government. It implies only continued recognition of the state. But, in such cases, care must be taken not to permit the representatives to perform acts which would be considered to constitute official intercourse; and no formal credentials are presented.[24]

On the other hand, an attempt, even if successful, to overthrow a *de jure* government in an old state, and the setting up of a *de facto* government, does not prevent foreign states from continuing to treat with diplomatic or other representatives sent by the old government to them. And such communication with these representatives of the old *de jure* government does not imply recognition of the *de facto* government. But, of course, unless it were meant to recognize the *de facto* government, no new credentials would be received from these old agents, who might care to accept the authority of the *de facto* government.[25]

On December 1, 1909, Secretary of State Knox sent a note to Nicaragua, severing diplomatic relations with President Zelaya's government and demanding full protection for American life and property from both Zelaya and the revolutionists. The note was handed to the Nicaraguan chargé d' affaires. It concluded thus:

> From the foregoing it will be apparent to you that your office of chargé d' affaires is at and end. I have the honor to inclose your passport, for use in case you desire to leave this country. I would add at the same time that, although your diplomatic quality is terminated, I shall be happy to receive you, as I shall be happy to receive the representative of the revolution, each as the unofficial channel of communication between the Government of the United States and the *de facto* authorities to whom I look for the protection of American interests pending the establishment in Nicaragua of a government with which the United States can maintain diplomatic relations.[26]

Moreover, it is an established practice that states receive "unofficial" agents from *de facto* governments without implying

---

[24]See *For. Rel.*, 1913, p. 809.

[25]Hyde, *op. cit.*, pp. 76, 77. See also Fenwick, *International Law*, pp. 353, 354, for reference to M. Bakhmeteff, Ambassador of the Russian Lvoff government to the United States.

[26]*For. Rel.*, 1909, p. 457.

recognition in so doing. Mention has already been made of the case of the representative of the Provisional Government of Northern Russia in Great Britain. In 1920, M. Krassin arrived in London as the head of a Russian Commercial Delegation, with the knowledge and consent of the British government. From letters written by the British Secretary of State for Foreign Affairs, it is shown that the British government admitted that M. Krassin was, and had been received by them, as the authorized representative of the Soviet government for the purpose of carrying out certain negotiations; and that as such he should be exempt from judicial process, but insisted that, "His Majesty's government have never officially recognized the Soviet government in any way."[27] The King's Bench Division, in the case of *Luther v. Sagor*,[28] considered that recognition had not been accorded.

Finally, recognition of the commercial flag of a *de facto* government does not imply recognition of the government.[29] Such action was taken in 1815, when the Secretary of the Treasury of the United States directed that merchant vessels belonging to the revolting Spanish provinces should be admitted at United States customs houses. Secretary A. J. Dallas advised the collector at New Orleans that:

> There is no principle of the law of nations which requires us to exclude from our ports the subjects of a foreign power, in a state of insurrection against their own government. It is not incumbent upon us to take notice of crimes and offenses, which are committed against the municipal laws of another country, whether they are classed in the highest grade of treason, or in the lowest grade of misdemeanor.
>
> Any merchant vessel, therefore, which has not committed an offense against the law of nations, being freighted with a lawful cargo and conforming in all respects to the laws of the United States, is entitled to an entry at our custom houses, whatever flag she may bear. She is also entitled to take on board a return cargo and to depart from the United States with the usual clearance.[30]

Bases of Recognition

Assuming that the proper time[31] has arrived for recognition of a *de facto* government, the further conditions for its recognition

---

[27] See McNair, A. D., *Br. Yr. Bk. Int. Law*, 1921–22, p. 60.

[28] [1921] 1 K.B. 456 (1920).

[29] Moore, *Digest*, Vol. I, p. 170.

[30] *Ibid.*

[31] The question of *premature* recognition will be discussed at a later point.

which have ordinarily been insisted upon, and usually considered to be adequate, by the recognizing state, have been simply that the *de facto* government be able to command the obedience of its citizens within the area of the state, and that it speak with the authority of the state in its dealings with other states. Expressing the traditional doctrine on this point, Lawrence states that, "Other states have no right to dictate what individual or body in a state shall conduct its external affairs. They must transact their business with those who are legally designated for the purpose. All they have a right to demand is that there shall be someone who can speak on behalf of their fellow-state and make for it engagements that it regards as binding."[32]

This policy of recognizing a *de facto* government on the basis of its being actually in control of a political situation and being, therefore, the real functioning government in the area of its operation, irrespective of the legality of its origin or the desirability of dealing with it as representing the people under its control, while never universally followed, has long been considered essentially proper. There has been, however, from time to time, and especially in recent years, a growing reaction against it. Professor Hyde observes that while it has long been an accepted principle that states should recognize a *de facto* government which has established itself as the functioning government in a state; and while in many cases the principle must continue to be observed, owing to the fact that usurping, even unpopular governments may be able firmly to establish themselves; yet there is a tendency among the enlightened states of the world to look back of the fact of a *de facto* government[33] and base their recognition more and more upon a principle of discouragement of the "activities of arbitrary and essentially non-popular aspirants to governmental control, when their methods are heedless of the laws of God or man."[34] And Fiore states that while "It is good policy to consider the form of government as of no import to international society," yet, "A sovereign may, however, refuse to recognize a new government which proclaims principles subversive and contrary to the fundamental laws of international so-

---

[32]*Principles of International Law*, 6th ed., pp. 90, 91. See also Fiore, *International Law Codified*, pp. 146, 147.

[33]The United States refused to recognize the Huerta régime as the *de jure* government of Mexico, because of the means by which it was established.

[34]Hyde, *International Law*, Vol. I, pp. 66, 67.

ciety, or which impairs in one way or another, the authority of the principles of common law indispensable for the preservation of the legal community among the states."[35]

Premature Recognition

The matter of the proper time for recognition of a new government is of great importance, not only to the *de facto* government itself, but also to the parent state (in case of secession of a section of an old state), and to the recognizing states. It is a well established principle of international practice that recognition of a *de facto* government of a new state which has been formed by separation from an old state need not be incompatible with the maintenance of friendly relations with the mother country, if it is not performed till the contest, if there is any, is over or virtually over in favor of the new state. But, *premature* recognition of a *de facto* government in a revolting area may be considered to constitute an unwarranted impeachment of the sovereignty of the parent state. In effect it is an act of intervention. Hence, great caution should be, and usually is, observed in such matters by foreign powers, except where reasons of policy interfere to prevent close observance of good practice.[36]

On the question of the proper time for recognition of a *de facto* government in a new state, Hall states that, "Definitive independence cannot be held to be established, and recognition is consequent not legitimate, so long as a substantial struggle is being maintained by the formerly sovereign state for recovery of its authority." Then he adds, "A mere pretension on the part of the formerly sovereign state, or a struggle so inadequate as to offer no reasonable ground for supposing that success may ultimately be obtained, is not enough to keep alive the rights of the state, and so to prevent foreign countries from falling under the obligation to recognize as a state the community claiming to have become one."[37] Stowell says that, "As long as the sovereign state is conducting military operations to regain its supremacy over the territory

---

[35]Fiore, *op. cit.*, pp. 148, 149.

See *Inter-America*, Vol. VIII, p. 503, and Vol. IX, p. 21, for articles criticising the newer tendency, by Luis Anderson, Costa Rican attorney.

[36]When France recognized the independence of the United States by concluding with it a treaty of commerce on February 6, 1778, Great Britain considered the recognition to be premature, and recalled its ambassador from Paris. Fiore, *op. cit.*, p. 147.

[37]Hall, *International Law*, 6th ed., p. 87; see also Lawrence, *op. cit.*, p. 88.

recognized as belonging to it under the law of nations, there is, . . . a presumption against the interference of any state, even on the grounds of protecting its interests, but when the sovereign state seems exhausted, and is unable or unwilling to prolong its efforts to reestablish its authority, the presumption in its favor is lost, and those states whose interests are affected by this unfortunate condition of affairs are justified in recognizing the revolutionary *de facto* government."[38]

Recognition an Executive Function

The question of what governmental authority in a state has the function of determining the matter of recognition of *de facto* governments has caused considerable discussion. But it is now a quite generally accepted principle that the question of recognition is a matter to be determined by the political departments of a government; and not by the judicial department, which will follow the determination made by the legislative and executive departments. In the case of *The Pelican*[39] in 1809, Sir William Grant, Admiralty Justice, said: "It always belongs to the government of the country to determine in what relation any other country stands towards it; that is a point upon which courts of justice cannot decide." In the United States attempts have been made on various occasions to claim for Congress an independent and even a paramount right of determination in the matter of recognition. But Congress itself has clearly conceded that the act of recognition is exclusively an executive function and that its own powers on the subject are limited to the mere offering of advice and assistance, and to consultation in regard to the exercise of the right when its exercise might result

---

[38]Stowell, *Intervention in International Law*, p. 349. In regard to the practice of nations in the matter of recognition, Professor Hershey states that, "It may be said that European governments, at least in the nineteenth century, seem to have been guided in the matter of the recognition of new states or governments almost wholly by considerations of policy or expediency and (perhaps we should add) sympathy with monarchial régimes." And he adds that, "The practice of the United States, on the other hand, appears to have been governed by mixed motives of expediency, sympathy with democratic movements, and supposed legality." 14 *Am. Jour. Int. Law*, 517. Sir William Harcourt points out that the case of Greece in 1822, usually cited as an example of recognition, is an example of intervention dictated by pure considerations of policy. "The International Doctrine of Recognition," in *Letters by Historicus*, pp. 3 ff., cited by Hershey, *op. cit.*, p. 506.

[39]Edw. Admr., App. D. (1809).

in dangerous consequences.[40] Furthermore, a consistent line of judicial opinion and well established practice indicates clearly that the power of recognition in the United States belongs to the President alone, or to the President in conjunction with the Senate.[41] "It is to be presumed, however," says Willoughby, "that when the recognition of . . . a revolutionary government is likely to institute a *causus belli* with some other foreign power, the President will be guided in large measure by the wishes of the legislative branch. Upon the other hand, it is the proper province of the Executive to refuse to be guided by a resolution on the part of the legislature if, in his judgment, to do so would be unwise. The legislature may express its wishes, but may not command."[42]

Reference has already been made to a similar view expressed by the British Admiralty Court in the case of *The Pelican* in 1809. In 1920 the Kings Bench Division said: "If a foreign government is recognized by the government of this country [England], the subjects and courts of this country may, and must, recognize the sovereignty of that foreign government and the validity of its acts. If a foreign government or its sovereignty is not recognized by the government of this country, a judicial court of this country either cannot, or at least need not, or ought not to, take notice of, or recognize such foreign government or its sovereignty."[43]

Recognition of De Facto Governments as such

It has already been pointed out that the mere realization and acceptance of the fact of the existence of a *de facto* government on the part of a foreign government does not constitute any sort of recognition in the political sense of that term. The nature, forms, and advantages of complete or *de jure* recognition have also been discussed. Now, it sometimes happens that a government feels that it has reasons for refusing to recognize a new government as a *de jure* government. In that case, it has been explained, the foreign government may adopt either of two

---

[40] See Berdahl, C. A., *The Power of Recognition*, 14 *Am. Jour. Int. Law*, 519.

[41] See *United States v. Hutchings*, 2 Wheeler's Criminal Cases, 543 (1817); *Williams v. Suffolk Insurance Co.*, 13 Pet. 415 (1839); *Kennett v. Chambers*, 14 How. 38 (1852); *United States v. Trumbull*, 48 Fed. 99 (1891).

[42] See Willoughby, *On the Constitution*, Vol. I, p. 462. See also Berdahl, *op. cit.*, p. 539.

[43] *Luther v. Sagor* [1921] 1 K.B. 456, 474 (1920); see also McNair, A. D., "Judicial Recognition of New States and Governments," *Br. Yr. Bk. Int. Law*, 1921–22, pp. 57, 61, 62.

courses. It may refuse to grant any sort of recognition to the *de facto* government, or it may recognize it simply as *de facto*.

It should be made clear that recognition of a *de facto* government *as such* is a specific aspect of the recognition problem, and does not follow from the mere acceptance of the fact of the existence of a *de facto* government, and not necessarily from communication and dealing with a *de facto* government. Such recognition may be preliminary to later complete recognition, but it is not necessarily so. The United States recognized the Carranza government, October 19, 1915, as the *de facto* government of Mexico by means of a note from the Secretary of State to the Confidential Agent of the Mexican *de facto* government expressly extending such recognition.[44] At that time the United States had for some time been communicating with the Carranza government through special agents. *De jure* recognition came nearly two years later.[45]

Great Britain recognized the Russian Soviet government as the *de facto* government of Russia in 1921 by signing a Trade Agreement with it[46] three years before *de jure* recognition was accorded.[47] It has already been pointed out that several months earlier M. Krassin had been received by the British government as the authorized agent of the Soviet government for the purpose of carrying on certain negotiations, and that he was exempt from judicial process.[48]

Thus, it should be clear that recognition of a *de facto* government as a *de facto* government does not follow, necessarily, from the fact of communication and dealing with such a government.[49] And recognition of a *de facto* government as such must not be

---

[44]*For. Rel.*, 1915, p. 771.

[45]See *supra*, note 12.

[46]*Luther v. Sagor* [1921] 3 K.B. 532 (1921). See also *Br. Yr. Bk. Int. Law*, 1921–22, p. 62.

[47]See *New York Times*, Feb. 2, 1924.

[48]The Trade Agreement has been held, however, not to guarantee immunity from civil action against the trade representatives of the Soviet government. *Fenton Textile Association v. Krassin*, 387 L.R. 259 (1921). And the quarters of the Trade Delegation were raided by British authorities in May, 1927, in search of alleged propagandist documents and evidence. Following this action, diplomatic relations with the Soviet government were broken off by Great Britain. See *New York Times*, May 27, 1927, and prior. See also Darling, A. B., "The Anglo-Soviet Diplomatic Rupture," 26 *Cur. Hist.*, 657 (July, 1927).

[49]See Moore, *Digest*, Vol. I, pp. 208 ff., 235 ff.

confused with *tacit de jure* recognition.[50] But there may be some question as to just what advantages are to be derived from recognition of a *de facto* government as such. For, if any sort of official diplomatic communication is entered upon with such *de facto* government, that of itself may constitute full recognition. And unofficial communication, at least to some extent, may be carried on with a *de facto* government without any sort of recognition.[51]

Yet there appear to be certain advantages that may come from recognition of a government simply as the *de facto* government of a state. In the first place, it appears that it may be possible that, by going as far as to grant such recognition, a government may be able to carry on certain kinds of intercourse with it, which would otherwise be difficult to carry on. For example, the British Trade Agreement with the Russian Soviet government, which constituted recognition of the Soviet régime as the *de facto* government of Russia, especially provided for the establishment of a sort of semi-official diplomatic relationship between the two governments. The preamble of that agreement set forth that the agreement was preliminary to a general peace treaty between the two governments. Provision was made for resumption of trade and commerce between the two countries. The agreement provided for the reciprocal appointment of agents by each of the two governments to reside in the territory of the other. These agents were given the rights ordinarily accorded to diplomatic and consular agents in respect to the visé of passports, and communication by code and cipher or otherwise; and they were granted immunity from all taxation, from which diplomatic and consular agents are ordinarily immune. They were also made immune from arrest.[52]

The foregoing advantage of recognition of a *de facto* government as such would seem to be an advantage not only to the recognized government, but also to the recognizing state. There are, however, certain advantages which, whether or not they accrue

---

[50] See Fauchille, *Traite de droit International Public*, Vol. I, p. 325.

[51] See above, note 20, for British court decision to the effect that unofficial communication with the Provisional Government of Northern Russia did not constitute recognition. British courts refuse to distinguish between *de facto* recognition and *de jure* recognition. See *infra*.

[52] See the text of the Trade Argreement of March 16, 1921, 16 *Am. Jour. Int. Law*, Supp. 141.

to the recognizing state, are distinct assets to the *de facto* government. Every sovereign state is bound to respect the independence of every other sovereign state. And the courts of one country will not sit in judgment on the acts of the recognized government of another, done within its own territory. Redress of grievances by reason of such acts must be obtained through the means open to be availed of by sovereign powers as between themselves.[53] For purposes of jurisdiction in this connection, British courts refuse to distinguish between *de jure* recognition and recognition of a *de facto* government as such. Recognition by the British government, whether of a new state or of a new government of an old state, whether *de jure* or *de facto*, whether absolute or conditional, is conclusive upon an English court, which will refrain from examining the official acts and conduct of the state so recognized. "So soon," said the Chancery Division in 1887, "as it has been shown that a *de facto* government of a foreign state has been recognized by the government of this country [England], no further inquiry is permitted in a court of justice here. The court declines to investigate, and indeed has no proper means of investigating, the title of the actual government of a foreign state which has thus been recognized. This attempted distinction between the *de facto* and the *de jure* government which runs through the statement of claims is untenable."[54]

Moreover, recognition of a *de facto* government as such validates the acts of that government from the date of its inception, at least so far as concerns the matter of jurisdiction of the courts of the recognizing state. On the basis of British recognition of the Russian Soviet government as the *de facto* government of Russia in 1921, the British Court of Appeal held:

1. that the Soviet authorities had assumed the sovereign power in Russia when they dispersed the Constituent Assembly in December, 1917;
2. that the recognition was retroactive to December, 1917, and
3. that the validity of the laws and decrees of the Soviet government could not be questioned in a British court.[55]

---

[53]See *Underhill v. Hernandez*, 168 U.S. 250, 253 (1897), and *Am. Banana Co. v. United Fruit Co.*, 213 U.S. 347 (1909).

[54]*Republic of Peru v. Peruvian Guano Company*, 36, Ch. D. 497 (1887).

[55]*Luther v. Sagor* [1921] 3 K.B. 532 (1921).

In March, 1915, one Argumedo, a revolutionary governor of Yucatan, was driven out by Alvarado, an adherent of Carranza. He went to New York, carrying with him 900,000 Mexican gold pesos, part of which he deposited there in a bank. On October 1, 1915, Yucatan, through representatives of Alvarado, began action in New York to enjoin its removal. On October 19, 1915, the United States recognized the Carranza government as the *de facto* government of Mexico. The New York Supreme Court continued the injunction, holding that Yucatan as a foreign state could sue; that Alvarado, as the appointee of Carranza, properly represented it; and that "It makes no difference that the recognition followed by a few days the initiation of this action, for the recognition of the Carranza government relates back to its inception and all acts of the plaintiff government of Yucatan, such as the bringing of this action, are ratified."[56]

It would appear, therefore, that, insofar as it concerns the question of the standing of a *de facto* government before the courts of a recognizing state, there is little, if any, real distinction between recognition as a *de jure* government and recognition as a *de facto* government.[57] But a *de facto* government is not content with *de facto* recognition and continues to seek full recognition. *De facto* recognition does not ordinarily carry the establishment of formal diplomatic relations and may not give rise to the prestige and respect at home which may come from full recognition by foreign states.[58]

---

[56]*Yucatan v. Argumedo*, 157 N.Y.Supp. 221 (1915). See also Wright, Quincy, "Suits Brought by Foreign States with Unrecognized Governments," 17 *Am. Jour. Int. Law*, 742, 744.

[57]See Baty, Thomas, "So-called 'De Facto' Recognition," 31 *Yale Law Jour.*, 469; and Costa, Podesta, "Regles á suivre pour la reconnaissance d' un gouvernement de facto par des états étrangers," 4 *Revue generale de droit international public*, 2nd series, 47. See also 25 *Harv. Law Rev.*, 507.

[58]On the legal aspects of recognition and non-recognition see Houghton, N. D., "Recognition in International Law," 62 *American Law Review*, 228, and "The Validity of the Acts of Unrecognized De Facto Governments in the Courts of Non-Recognizing States," 13 *Minnesota Law Review*, 216, and Hervey, John G., *Legal Effects of Recognition in International Law.*

BOOK REVIEWS

EDITED BY O. DOUGLAS WEEKS
The University of Texas

Acheson, Sam Hanna, *Joe Bailey, The Last Democrat.* (New York: The Macmillan Company, 1932, pp. xvi, 420.)

Joseph Weldon Bailey, loyally loved by friends, roundly hated by opponents, stands out as one of the most remarkable figures in the political history of Texas. He was an orator of unusual eloquence, a constitutional lawyer of real ability, and for several years the master of the Democratic party in Texas, but he was not a particularly astute politician, and frequently went before his constituents espousing an unpopular cause. He was however, able to convince many voters of his ability to serve both the people and the corporations. During his twenty-two years of service in the National Congress he was in harmony with only one president, the ultra-conservative Taft, and Taft, in appreciation of the Texan's ability and conservatism, offered him a place on the Supreme Court of the United States. As a leader of his party in Texas, and as one of the leaders of the national democracy, he opposed in turn Cleveland, Bryan, and Wilson. He was seldom a constructive statesman, and many of his greatest speeches were made in opposition to the proposals of others. This man, who never learned to compromise, displaced Hogg as the master of the Democratic party in Texas, and remained the most powerful figure in the party until 1912, when he unsuccessfully opposed the march of Progressive Democracy. His political retirement was, however, assured before 1912, as his relations with the president of the Waters-Pierce Oil Company had multiplied his enemies, and embarrassed his friends.

Joseph Edgar Bailey spent his childhood in Mississippi, experiencing that period in her history misnamed Reconstruction. Reared in this atmosphere he came to magnify the grandeur of the ante-bellum South, and in the vanity of youth affected both the manner and dress of some admired aristocrat. Bailey received a better than average education, and through the generosity of an uncle he was able to become a student of the law. It was in memory of this uncle that the name Joseph Edgar gave place to Joseph Weldon. No sooner was his legal education completed than he began the practice of law—and politics. In 1883 at the age of 20 he was quite progressive in politics, standing for such a "socialistic" proposal as the governmental regulation of railroad rates. A few years later, after having moved to Gainesville, Texas, in 1885, he espoused free silver, the income tax, and state-wide prohibition.

The newcomer was well received in Texas, and in 1890 was elected to Congress. There followed ten years of service in the House of Representatives and twelve in the Senate. These twenty-two years in Congress saw the young radical change to a conservative of the conservatives. This change was brought about by the simple process of standing still. His political creed at the time of his death was practically the same as it had been in 1890, for Joe Bailey had closed his mind to the world about him and hoped for a return to the days of Clay and Calhoun. He was, in truth, the last

ante-bellum Democrat. He became so violently opposed to change as to deserve the criticism of a political opponent that he had turned his back to the future and his face to the past.

Sam Hanna Acheson has written a sympathetic and interesting biography of this last Democrat. The author had access to the Bailey papers, and from them has brought to view many interesting sidelights on Texas politics. The chief criticism of this biography is one which applies with equal force to any short biography—it is sketchy. For example, something is told of the legislative investigation of 1907 growing out of the Waters-Pierce Oil Company matter, but after reading the discussion there remains a question as to whether Mr. Bailey was justified or white-washed.

The author is also inclined to over-estimate the political influence of Mr. Bailey after his retirement from the Senate. The statement that Bailey controlled the State Democratic Convention of 1916 will be challenged by many persons, who will contend that the real power in that convention was Governor James E. Ferguson.

Finally, Mr. Acheson has almost entirely neglected the human side of Mr. Bailey's character. Little is said of the supreme egotism—at least partially justified—which seems to have influenced so many of the Senator's acts. Perhaps this egotism aided in giving him the courage of his convictions; certainly it made it possible for him to declare in all seriousness that he was the "tallest and cleanest Democrat in the party," and to assure his constituents that: "When I make a mistake, I at once apologize for it, but I make so few mistakes I am seldom called upon to apologize."

As a whole, the biography is well written and interesting. It will be appreciated by the friends of Senator Bailey, and should be read by his enemies.

RALPH STEEN.

The University of Texas.

Sorokin, Pitirim A.; Zimmerman, Carle C.; and Galpin, Charles J., *A Systematic Source Book in Rural Sociology.* (Minneapolis: The University of Minnesota Press. Vol. I, 1930, pp. xx, 645; Vol. II, 1931, pp. xiv, 677; Vol. III, 1932, pp. xiii, 752.)

This source book was intended as a supplement to Sorokin and Zimmerman's *Principles of Rural-Urban Sociology*, which was published in 1929, and which should need no introduction to sociologists at this time. When Sorokin and Zimmerman wrote their *Principles*, it was their idea to make it a unique text in rural sociology, carrying the illustrative readings parallel to their own discussions. They soon found that the field was so broad and the amount of literature which they wanted to incorporate was so great that they decided to publish a text in condensed form, and follow it up with source materials published separately. Dr. Galpin hastened this decision by offering financial aid for much of the translation and the final publication of the book. In this way, they finally agreed, they would be able to publish a text book which would, from their viewpoint, be superior to any in existence at that time, and would compile a source book which would unquestionably stand alone in the field of rural sociology, and which in its own way would claim a prominent place in sociological literature at large.

These three scholars, each enigmatically unique in his own way, have pooled their judgments in bringing forth this comprehensive *Source Book in*

Rural Sociology. The outstanding characteristics of this collection are: (1) its historical completeness, ranging from antiquity to the present; (2) its logical coördination of materials; (3) its inclusiveness both temporally and spatially; (4) its selectivity of relevant facts; (5) its minute and exact interpretations; (6) its wealth of descriptive and illustrative matter, and (7) the enormity of the labor and energy required to produce it.

The first volume is divided into two major parts, the first a historical introduction reviewing the ancient sources, the history of rural sociology from the fourteenth to the nineteenth century, the origin of rural-urban differentiation, and the fundamental differences between the rural and urban worlds. The second part of this volume deals with rural social organization in its ecological and morphological aspects. In all, eighty selected readings are included in this volume. The second volume is devoted to rural social organization in its institutional, functional, and cultural aspects, and includes seventy-three readings. Volume three is divided into two parts, one on physical, vital, and psycho-social traits of farmers and peasants; and another on rural-urban social relationships. This volume includes fifty-nine selected readings.

While this is called a source book, it is more than that. Each chapter and major division generally contains a comprehensive summary of the theory involved in the literature and sources that are offered as readings. The manner of presentation is characteristically that of Sorokin, who consistently presents his theoretical summary first and follows up with evidence. To one not acquainted with him, this may have the appearance of setting up a theory and then seeking out the facts to prove it. However, nothing is more remote from the truth than that; it is simply a matter of style which he uses as a psychological device for catching the attention of the student or reader and arousing his interest so that he will not be drowned in factual materials before discovering what they are about. There is one obvious characteristic of the book for which some may wish to criticise the editors. That is, its scheme is after the fashion of a text book. The readings are selected about a central theme, which is in essence much the same as the former text book. In other words, it is an organized source book and not simply a bale of literature. According to the editors, the book is intended to be a complete encyclopedia and a systematic treatise in the field. However, it is not an encyclopedia in the usual sense of being an agglomeration of brief sketches on unclassified topics. There is a central core that runs through the entire work. The whole set-up consists of what the editors consider the fundamental nature of rural sociology to be, and no doubt the general outline existed in Sorokin's mind long before a page of material was assembled. It contains no propaganda, programs, or theories for the enrichment of rural life, but simply explains rural social phenomena as the editors understand them.

To give a complete descriptive appreciation of this book in the space allotted for that purpose is impossible. Suffice it to say, however, that many years are to come and go before this book will have any serious competition, and when others of a similar nature may have been compiled this one will still be the "Old Trusty" which will be regarded as the ancestral patriarch of them all. No sociologist can afford to try to work where he cannot have the Source Book at his elbow. For the rural sociologist it must be his inseparable companion and guide. To say that it is outstanding or the best

that has appeared would be to employ a much-worn perfunctory expression. There has never been anything like it.

O. D. DUNCAN.

Oklahoma Agricultural and Mechanical College.

Saposs, David J., *The Labor Movement in Post-War France.* (New York: Columbia University Press, 1931, pp. xviii, 508.)

Sharp, Walter Rice, *The French Civil Service: Bureaucracy in Transition.* (New York: The Macmillan Company, 1931, pp. xii, 588.)

The World War marks a turning point in two great movements in France. Trade-unionism, on the one hand, and governmental bureaucracy, on the other, have experienced a rather interesting reorientation; and the causes and effects of this development in each sphere present an interesting picture of French social and governmental history. It is with these two movements that the books of Saposs and Sharp are concerned, and each author has approached his task with an accurate knowledge of French conditions and circumstances that demonstrates the carefulness of their observations and the soundness of their conclusions. The interesting relation between labor and a major part of the governmental bureaucracy in France gives to these two books a similarity in interest for the reader.

In tracing the history of the trade-union movement in France, Mr. Saposs points out the significant swing from pre-war syndicalism to post-war reformism, from "Mediterranean Syndicalism" to "Western European trade unionism," with the differences in the tactics employed. Post-war developments likewise contributed to definite schisms in the labor movement that naturally lessened the possibilities of united action. With this change in the labor movement there is also to be noted a change in the policies of employers as well as in the interest of the state in labor, a change which, in the latter case, has meant a swing from the notion of individualism and sometimes oppression to that of paternalism and a wider legal recognition of unions. Finally, Mr. Saposs points out the interesting growth of the Coöperative Movement among Consumers, which is distinctly a post-war development, at least on a large scale, in France, and the present political activity and new political groupings among French workers.

Of considerable interest to students of comparative public administration is Professor Sharp's book on the French civil service. In those countries where the democratic philosophy of government has served to prevent the development of sound administrative practice, this analysis of the problems that have arisen in the French administrative system and the attempts at solution that have been made will prove helpful and instructive, for, after all, civil servants everywhere are simply human beings with certain likes and dislikes that color their political behavior. Politically-minded officials at the head of the civil service in France have, by their political practices, undermined the morale of *les fonctionnaires* and have forced the civil servants to organize for self-protection. This organization, closely allied with the ordinary trade union movement in industry, has resorted to the strike to make more forceful its demand for a fair general civil service code. At the same time the association of civil servants has constantly broadened its program, so much so, in fact, that it has at times challenged the existence of the national state itself. To understand properly the conflict between the

civil servants and the highest officials that has raged for over two decades, it is necessary to examine the fundamental bases of appointment, promotion, removal, and compensation upon which the merit system is based, and to see wherein this system is defective. In a scholarly manner, Professor Sharp examines the whole existing civil service structure with this idea in mind, after giving a proper historical setting for his problem. He then analyzes the impacts that a "specialized twentieth-century technique of management" in private industry has made upon the governmental bureaucracy and indicates the various methods that will be employed, and are being employed, in renovating this bureaucracy in line with the demands of the civil servants and the conditions of the modern age. The criticisms of administrative syndicalism are noted, but the basis for this idea among civil servants is well presented, and the transition in governmental bureaucracy from the "rule-of-thumb" methods of the nineteenth century to a more "rationalized" technique of management of the present century is clearly indicated.

J. ALTON BURDINE.

The University of Texas.

Stauffer, William H., *Taxation in Virginia.* (New York: The Century Company, 1932, pp. xxv, 309.)

Taxpayers are becoming "hard-boiled." The constant prodding of tax bills —ever larger tax bills—was never pleasant. Now, in the third year of a business depression, the duty of paying these bills has become an onerous burden. Even the best designed tax system now fails to accomplish the goal once set by a French writer of "plucking the greatest number of feathers with the least squawking."

Virginians have a second interest in their tax system. Not only are they focussing their attention on the taxes they pay because of the increasing burden of taxes assessed on sharply reduced incomes, but they are aware of the advances which the state has made, first in the adoption of a classified property tax in 1915, and secondly, in the separation of sources of revenue in 1928. Virginia's tax system has been in the limelight for several years.

Dr. Stauffer's comprehensive study of this tax system, hence, is of widespread and timely interest. At no time, probably, was an up-to-date, thorough analysis of a state's tax system more propitious. And few studies of state tax systems were better qualified to provide a whole-sided picture for the taxpayer's review.

The first half of this book provides an accurate picture of the growth and present status of the basic features of Virginia's revenue system. Here are described in turn the growth of both state and local governmental costs and taxes, the sources from which the state and localities derive their revenues, the financial organization of county government, property taxes levied by the state and the localities, and the income taxes.

Shifting his viewpoint in the second half of this volume, Dr. Stauffer attempts to weigh the relative tax burdens which are borne by the farmer, the business firm, public service corporations, banks, and a number of miscellaneous tax subjects. Finally, in a short, unsatisfying chapter, the author presents his conclusions.

On the whole, Dr. Stauffer speaks complimentarily of the present Virginia tax system. He does not, however, fail to point out several improvements

which he believes might well be made. He suggests the taxation of all intangibles at a low rate along with the levy of a personal income tax. He advises the abandonment of the annual franchise tax on the capital stock of domestic corporations and the substitution of higher rates of corporation income tax. He favors the lowering of exemptions for the personal income tax and the raising of graduated rates on the higher income brackets. And he favors changes in the taxation of banks.

Finally, he makes a particularly significant suggestion that a central agency vested with the power to influence local assessment of taxable property be created. Unquestionably the weakest link in the present system of taxation in this state is the local assessment of real and personal property. And this is a problem which segregation has aggravated rather than remedied; a strong central agency is earnestly needed. But will it ever be feasible?

Tax authorities have generally reviewed this book with favor. Here it will suffice to repeat the general opinion that Dr. Stauffer has produced a model exposition of a state tax system. Although burdened heavily with statistical tables which will rebuff the average reader, this study is an authoritative, scholarly piece of research deserving of the study of every student of public finance.

JOHN J. CORSON, III.

Richmond, Va.

Crane, John O., *The Little Entente.* (New York: The Macmillan Company, 1931, pp. 222.)

In spite of the fact that central Europe and the Balkans are stormy and eventful spots of Europe, only one book, other than the one under review, dealing with the problems of the countries forming the Little Entente, has appeared in English (Robert Machray, *The Little Entente,* London: George, Allen & Unwin, 1929). While Machray's volume is a compilation of documents and speeches, the present volume is an excellent interpretative study not only of foreign policies but also of the post-war internal conditions of Czechoslovakia, Roumania, and Yugoslavia.

The author has studied the problems on the spot—as a member of the diplomatic service. He outlines his thesis in the Introduction: "For it is in reality the story of the attempts of the Little Entente leaders to provide the basis of lasting peace in just that part of Europe where the fatal spark of world conflagration was struck some sixteen years ago." He then supports this statement with an impressive array of interpretative facts, which, with one exception, are reasonable and valid. This exception relates to the *Anschluss* question. When the book was being printed the newspaper headlines informed us of the *Anschluss* plans. Thus Crane's assumption that "the realization of the *Anschluss* program as an international act seems more remote than ever" seems rather fragile.

In discussing Czechoslovakian politics, Crane sees a radical improvement in the economic and social consolidation. Roumania still suffers with discontented minorities and internal unrest, which can be traced to the dictatorship of the Bratianus. "A few years of honest administration and hard work at Bucharest should put Roumania, with its rich endowment, on the path to upward advance all along the line." Yugoslavia is troubled by the

post-war moral crisis, petty party politics, and a misunderstanding between her different races. The author defines it as "the Balkanization of politics."

In spite of all the attempts of the leaders of the Little Entente, and especially of Dr. E. Benes, the economic relations of these three states are unsatisfactory. This is attested by the fact that Czechoslovakia concluded no tariff treaties with Roumania and Yugoslavia until 1930. "Whenever negotiations were opened up for such a convention, they went shipwreck on the rock of economic nationalism."

But the diplomatic and political attempts of the Little Entente have been, so far, successful, as it has had the capacity to handle and dispose of the pressing demands of international relations. The preservation of peace was the cornerstone of its endeavors. If this is the highest goal of international relations, then one must agree with Crane that "peace is vastly more vital than is the grievance of any one nation." The Little Entente has defeated the efforts of Hungary to overthrow the existing order and it has preserved the territorial and other provisions of the peace treaties.

A very short bibliography, practically worthless, and an appendix of treaties are included. The facts are accurately stated with one minor exception. The fusion of the National-Peasant Parties of Roumania occurred in 1926 and not in 1927 (p. 67). The volume is well written, timely, and a welcome addition to the scanty literature on the topic.

JOSEPH S. ROUCEK.

Centenary Junior College, Hackettstown, N.J.

Meyer, L. W., *The Life and Times of Colonel Richard M. Johnson of Kentucky.* (New York: Columbia University Press, 1932, pp. 508.)

Richard Mentor Johnson, one of the first and foremost of a long list of Kentucky colonels, has remained, for some strange reason, one of the almost forgotten figures of history. His influence was important during the thirty years that he was a member of Congress; and like the more illustrious Kentuckian, Henry Clay, he was a perennial candidate for the presidency. He succeeded in being elected as vice-president in 1837, the only vice-president of the United States ever elected to that position by the Senate.

The author of this new Johnson biography has patiently combed the source materials for the period and has, I believe, implemented a program of utilizing every note that was taken by him during that painful process. As a result, the finished work has all of the earmarks of a doctoral dissertation. It lacks discriminating thought, evaluation and selection of materials, and, above all, an historical perspective. One easily receives the impression that Colonel Richard M. Johnson must have been the greatest of all Kentuckians and to have defined the policy of Congress from 1800 to 1840. And if this latter presumption be so, there exists an imperative and mandatory need for the re-writing of a large part of our earlier history.

Biographical writing should command abilities other than those of a mere clerical nature. The scrupulous introduction and maneuvering of historical data should be consciously directed to produce an understandable picture of a single personality, the subject of the work. In this study there appears no attempt to interpret Johnson, to motivate him, as a military leader, as a congressman, as a candidate for the presidency, or as a private personality.

It would seem not inadvertant for a scholar who had followed a particular man through a dozen libraries and through the dusty letter files of government departments to accost the object of his search and demand of him some pertinent information. However, Meyer never presumes as far; his is a patient diligence, and, above all, worshipful.

The study is prejudiced in that it is not discriminating. With modern chamber-of-commerce technique, the author reiterates the empty and unmeant compliments with which politicians fed the personal and political vanity of the ambitious Johnson. Johnson, no doubt, realized at the time that they were the paraphernalia of the hypocritical; a biographer ought to be even quicker to realize these facts. With an excellent opportunity to debunk a rank politician, as Johnson assuredly was, and contribute a real work to historical literature, the author supinely wends his way cataloguing the insincere mouthings of contemporary party leaders. Why did he not mention and criticize Johnson for his demagoguery, for his lack of information, for his willingness to appear something that he was not? Why not point out the fact in lucid language that Johnson continuously kept his hand in the political pork-barrel, procuring fat government contracts, while he was a member of Congress? Why not admit openly that Johnson was so rank a "gum-shoe" politican that he straddled all the leading issues and thereby lost the support of his party? In his old age, he peddled himself to the American people, paraded himself as the actual killer of Tecumseh, and was, in the end, ignored by common consent. Colonel Johnson needs the treatment of a Merejkovshi; then we might discover why the cast iron nipples of the she-wolf went dry.

CORTEZ A. M. EWING.

The University of Oklahoma.

Shupp, Paul F., *The European Powers and the Near Eastern Question, 1806–1807.* (New York: Columbia University Press, 1931, pp. 576.)

The decline in the power of the Ottoman Turks, first revealed in a spectacular form by the treaty of Kutchuk-Kainardji in 1774, produced during the period of the French Revolution and Empire the beginnings of the European ambitions and rivalries which finally take form as the nineteenth century Near Eastern Question. Many of the most significant factors in the problem appear in the short but important period between the treaties of Pressburg in 1805 and Tilsit in 1807, and France's policy in particular evolves rapidly to something like its final nineteenth century form. Dr. Shupp's valuable monograph supplies a detailed study of the part played by the Near Eastern question in Napoleon's policy during the months after Tilsit, and shows how rapidly the stress of circumstances developed and moulded the policies of the great European powers.

France's earlier predominance at Constantinople, based on her commercial interests in the Levant and her repeated assistance to the Turks against Russia and Austria, made it possible for her to visualize Near Eastern diplomacy as a factor in her attack on the British position in India; Napoleon's treaty with Persia shows that as late as May, 1807, a French attack on India was still a matter of serious consideration (pp. 436–7). Able French diplomacy, backed up by the defeat of Prussia at Jena, made France the strongest power at the Porte in 1806, and had the natural effect of throwing

Russia into an attitude of hostility to the Turks, resulting in a Russian occupation of Moldavia and Wallachia in December. The British government, after first endeavoring to keep peace between Russia and Turkey, finally took Russia's view of the situation, though on the British side the actual breach with Turkey was really due to the patient but provocative tactics of Admiral Duckworth and the Ambassador Arbuthnot. At Tilsit, Napoleon managed to avoid giving the Emperor Alexander any direct guarantees as to a partition of Turkey, but he "really sacrificed his political *rapprochement* in the east to consolidate his position in the west"; Turkey and Persia soon realized that they had little to hope for from the French, and the idea of using the Near East as a stepping stone to Far Eastern predominance passed forever out of the range of French practical politics. With the issues thus simplified Britain began to take up her position as the natural defender of Persia and Turkey against Russian aggression.

The author has made extensive use of manuscript material from European archives, particularly official British and French collections, and the work forms in some respects a compliment to H. Butterfield's recent "Peace Tactics of Napoleon, 1806–1808." Some fuller attempt to relate this crisis to the general development of the Eastern Question would be welcome; even the stalemate which appears to have been arrived at in 1807 is significant for the future, and the alignments of the years immediately after Tilsit show that most of the essential factors of the Near Eastern conundrum have come into existence. A number of typographical errors suggest that more care might have been given to proof-reading.

W. N. Medlicott.

The University of Texas.

Spero, Sterling D., and Harris, Abram L., *The Black Worker.* (New York: Columbia University Press, 1931, pp. x, 509.)

The authors of *The Black Worker* state in the preface that their work "is an effort to set forth descriptively and analytically the results of a study of the American labor movement in one of its most important aspects, namely, the relation of the dominant section of the working class to the segregated, circumscribed, and restricted negro community." To this end they present in more or less historical arrangement the story of negro labor in the United States, treating the subject under five main heads as follows: The Heritage of Slavery, The Negro Worker and the Rise of Trade Unionism, The Negro as an Industrial Reserve, Industrial Unionism and Labor Solidarity, Negro Labor Since the War.

The relations between whites and blacks in industry are shown almost invariably to have begun in the form of conflict. The already established worker regards every newcomer as an interloper to be kept out as long as possible, lest his presence as a competitor reduce wages. Since the negroes can be identified by their color, a trait which they cannot rid themselves of, they are subject to discriminations which the white newcomer escapes after a time.

As might be expected, the strongest objection to negro workers comes from those groups most affected by negro competition, namely, the low-paid, unskilled or partly skilled white workmen. The lowest of these, having little or no organization among themselves, cannot offer effective resistance to

colored intrusion; this remains for those whose skill and intelligence have enabled them to organize and secure a monopolistic control of the jobs in their occupation. By reserving the jobs for members of the organization and by refusing membership to negroes, they prevent negro workmen from competing.

The interests of the employers, however, are not identical with those of their white employees and, when negro workers can be secured at a lower cost, employers frequently attempt to engage them. This is especially likely to happen when a strike has withdrawn the supply of white labor. The use of negroes as strike-breakers places the unions in an embarrassing position. If the negroes are refused admission to the organization, they cannot be controlled; if they are admitted, the white monopoly is broken. Sooner or later the opening of the unions to negroes becomes inevitable. Indeed the American Federation of Labor has held consistently that the workers of all races have a common cause, which must suffer defeat if inter-racial strife be permitted in the unions.

Though still far from equality, the negro worker has made large gains. In many cases onerous conditions are imposed upon the colored members of labor unions, but these conditions mark the first step in the progress toward full membership, to which white workers must consent in order to wage their war with the employers. When the last discrimination has disappeared, the problem of the black worker will be one with the problem of workers in general.

CARL M. ROSENQUIST.

The University of Texas.

Daggett, Harriet S., *The Community Property System in Louisiana with Comparative Studies.* (Baton Rouge: Louisiana State University Press, 1931, pp. xii, 233.)

The purpose of the author in this clearly and concisely written volume is to give the reader a conception of the operation of civil law with regard to community property, and to show that of the types of the community system in use in eight states of the Union that of Louisiana is most basically sound and most equitable in its variations. Students of law and the interested lay reader should be grateful to the author for this compact summary of the civil law on community property; as a legal document bearing upon the problem it is of the utmost value.

Professor Daggett analyzes such questions as the creation of community property, its management and disposition, management of the separate property of the wife, management of the separate property of the husband, and the wife's legal mortgage and privilege. The investigation of creditor's rights, the effects of a separation, the settlement between husband and wife, the rights of the surviving party, and the conflict of laws have doubtless entailed months of patient research.

The author faced a problem rather broad in its scope, and the necessity for presenting the subject in one volume has resulted in a rather sketchy treatment of the comparative phase of the study. Professor Daggett assumes, however, that the characteristics of the Louisiana system which make it a model for the other states are not worthy of extended discussion because

the Louisiana system is the true parent stock and has been least weakened by the common law idea of marital rights.

The study points out that the common law relation between husband and wife was designed when women occupied a subordinate position in society, and that the operation of this law works an injustice on the women of the present age. The community property system, on the other hand, needs only a few changes and additions to make it "a perfect habitat for the husband and wife of today." The rights of the wife in the community property are at present uncertain even in Louisiana, with only an expectancy so far as the analysis of present laws, jurisprudence, and historical background discloses. Professor Daggett suggests an ultimate settlement of the disturbing question by giving the wife, if she has it not already, "a present, vested estate, which would be a true 'community' settlement and would rebut in part the assertions that the term is a misnoma."

LEON G. HALDEN.

Sam Houston State Teachers College.

Gooch, R. K., *Regionalism in France.* (New York: The Century Company, 1931, pp. xii, 129.)

For some time now those concerned with European government and comparative administration have awaited with interest the publication of Professor Gooch's study of French Regionalism. The investigator's qualifications for making the study and the care with which he pursued his work, together with the ever-present and apparently ever-pressing character of French administrative reform, combined to guarantee him a sympathetic audience, whose interest was further heightened by the lack of any previous study of regionalism in English approaching thoroughness.

Those who read the book, now that it has made its appearance, will not be disappointed, for the author has handled his subject in a way which is quite satisfactory. In its eight chapters he has treated of the French theory of liberty and its relation to regionalism, central control over departmental and communal officials, the case of centralization vs. decentralization, the attempts at decentralization which have been made, the obstacles confronting decentralization, and the various forms and manifestations of regionalism currently existent, namely, those of a sentimental nature, those which rest on economic considerations, and those which have come into being spontaneously and without design, as for example, the districts wherein sit the courts of appeal. The treatment of the subject reveals an understanding which could have come only from a first-hand investigation, though it is apparent that manifold documentary sources have been examined in a conscientious effort to make the study adequate in every respect.

One may be somewhat surprised at first sight of the book, for in truth it appears a little thin for so significant a problem. An examination reveals the fact that it is not encyclopedic in nature; indeed, the author takes some pride in the briefness of his book, and with considerable justification, for he has succeeded in writing much in a few pages. He may well console himself that, whatever its shortcomings, it will never be referred to as a reference work (see the preface); but he may in addition congratulate himself on

having made available an accurate and sufficiently thorough study of a problem too long neglected by students on this side of the Atlantic.

ROSCOE C. MARTIN.

The University of Texas.

Willoughby, W. F., *Financial Condition and Operations of the National Government, 1921–1930.* (Washington: The Brookings Institution, 1931, pp. xii, 234.)

One who has delved into the financial reports of the Secretary of the Treasury is struck by their inadequacy in furnishing to the investigator data for a proper interpretative analysis of the financial operations, now stupendous, of the national government. Although the passage of the Budget and Accounting Act of 1921 remedied some of the gravest defects, from the standpoint of proper accounting procedure, in the accounting reports of our national government, yet even now the difficulty of acquiring a true picture of the financial condition of our government from these reports is apparent to one who makes such an attempt. For the first time a proper classification and interpretation may now be had in Professor Willoughby's excellent book, as well as an instructive picture of the apparently great success of our financial operations since the establishment of the budget system. Approaching his task with the eye of an accountant, Professor Willoughby, by rearrangement and proper analysis, gives meaning to the varied financial transactions of the national government, introducing his subject by a clear description of the intricate operations involved. By the use of many tables and charts, from the general to the particular, he constructs a treasury balance sheet and an operating statement for the government. Moreover, he divides Federal income and expenditures into such divisions as to distinguish between Federal revenue and non-revenue receipts, cost of operating the government proper, other governmental costs, and non-governmental costs; and he considers the special business enterprises set up by the government as a special group, possibly capable of paying their own way. The public debt is also analyzed as to its character and the provisions made for its reduction. Not only do the various tables help in exploring this complex field of public finance, but the interpretative analysis is invaluable in giving to one a proper understanding of the subject involved. From such a study we can gain a rather accurate knowledge of the financial condition of the national government which is, as the author states in his preface, "a condition precedent to the intelligent planning of future governmental policies."

J. ALTON BURDINE.

The University of Texas.

Gilpatrick, D. H., *Jeffersonian Democracy in North Carolina, 1789–1816.* (New York: Columbia University Press, 1931, pp. 257.)

The title of the book is slightly misleading. So far as the reviewer is able to gather, this constitutes a detailed study of the petty bickerings of partisan politics in North Carolina during that period. It is not a study on Jefferson democracy, and nowhere is there included anything like a satisfactory definition of that term. The exigencies of partisan politics and the electoral decisions on political issues are, at best, inadequate and unsatisfactory mechanics with which to delineate and define a philosophic concept.

The author has scoured the early sources of United States history, and he has faithfully recorded their spirit and principles. On the whole, however, the work is chaotic and ill-organized. Unnecessary repetitions are numerous. No maps or charts are included as illustrative material. For North Carolinians, the work may be easily intelligible, but to those unacquainted with the geography, county locations, and urban distribution of that state, the thread is followed with some difficulty and, probably, with erroneous conclusions.

The book illustrates well the chilling result of the Teutonic gale that has blown across the terrain of American historical writing. A conglomeration of stolid, assumed facts are woven into the cloth of history, a fabric of very drab quality. In the 240 pages there are approximately 1,200 footnote citations. Thus, from the standpoint of sheer technique, this must be accorded a splendid piece of work. However, in organization, definition, and interpretation, the work has serious shortcomings.

CORTEZ A. M. EWING.

The University of Oklahoma.

Kennedy, W. P. M., *Some Aspects of the Theories and Workings of Constitutional Law.* (New York: The Macmillan Company, 1932, pp. xiv, 142.)

These four lectures, delivered at Lafayette College on the Kirby Foundation, bring to the American reader a refreshing viewpoint on such problems as "The State and the Law," "Theories of Law and the Constitutional Law of the British Empire," "Law and Custom in the Canadian Constitution," and "Some Problems in the Workings of Canadian Political Institutions." Professor Kennedy, drawing upon a wealth of information, has impacted here in brief space so many stimulating observations that it is difficult to choose among them. The happy flexibility of the British constitutional system, the wide influence of Dean Pound and Justice Cardozo upon Canadian legal thought, and the freedom of Canadian courts from the volume of litigation which arises under our system from the ambiguities of the Fourteenth Amendment, stand out as points of special interest to students of American constitutionalism. On the last point Professor Kennedy's remarks have particular incisiveness: "Our rule then is extremely simple: given the legislative power, the legislature is free, and the courts must enforce the legislation quite apart from any idea which they may have of its justice or injustice. If redress is necessary, it lies with the people at an election." (p. 76).

WALLACE S. SAYRE.

New York University.

BOOK NOTES

Charles Upson Clark's *United Roumania* (New York: Dodd, Mead and Company, 1932, pp. xiv, 418), is actually a revised edition of the author's previous study, Greater Roumania, which was published in 1922. Several new chapters have been added to make the present study a more complete picture of Roumanian cultural life. The volume will serve as a useful introduction to a study of modern Roumania. It is hardly more than an introduction, however, for though written with charm and frequently enlivened

by interesting character studies of Roumanian leaders, it is frequently superficial in its conclusions. Thus, for instance, the author concludes (p. 373): "Originally formed as a safeguard against any Austro-Hungarian revival, it [the Little Entente] has largely lost its earlier associations, and is becoming predominantly economic; it would not be surprising to see it lead to a customs union." Even a rapid survey of the statistics of trade between the members of the Little Entente would have shown Dr. Clark that the Little Entente is weakest in economic ties, that it is essentially a political union. Similar mistakes appear in other portions of the work. Oscar Jaszi's authoritative account of the dissolution of the Hapsburg monarchy was apparently not consulted. The social scientist will regret the failure to analyze the personalistic, economic, and philosophic bases of Roumanian politics since the War, as well as the far-reaching effects of the present electoral law. The author is at his best in his chapter on Roumanian literature.

W. S. S.

At the request of the Association of the Czechoslovak University Professors, a series of eleven volumes is now being published in Czechoslovakia, which will cover all phases of the new republic. One of these, *Stát* (State) [Vol. V, in *Ceskoslovenská Vlastivěda* (Czechoslovakia in All Its Aspects), Prague: "Sfinx" Bohumil Janda Publishing Company, 1931, pp. 703], edited by Jan Kapras, deals entirely with the structure of government and its historical development, military organization, and foreign and domestic politics. No other work of this type can compare favorably with the present effort, which is monumental in its scope, as evidenced by the fact that eighteen collaborators have written various chapters, illustrated throughout by 678 photographs, diagrams, maps, analytical tables, etc. Useful bibliographies are appended to each chapter. While this is an indispensable volume to those who can read the language, the treatment has its serious limitations. The writers limit themselves, as is their present day practice, to the legal analysis of their topics, and fail entirely to tell us the actual working of the Czechoslovakian government and its politics. Thus, for example, the Constitution is analyzed, but we do not learn at all how the post-war years have changed the Constitutional practice. As one instance, it can be mentioned that there is a special "Constitutional Court"—on paper; actually not one law has been examined. Again, it is provided that the politicians shall not use "political pull" in behalf of their followers. Actually, this is one of the most serious problems of that country. But disregarding its limitation of treatment, this is an admirable volume.

J. S. R.

Through financial aid received from the William A. Dunning Fund, Professor Robert Livingston Schuyler has edited a volume of the writings of Josiah Tucker, the eighteenth century Dean of Gloucester, *Josiah Tucker: A Selection from His Economic and Political Writings* (New York: Columbia University Press, 1931, pp. 576.) Tucker was one of the prolific controversalists in that age when pamphleteering was an art. Being a conservative Whig, he reflected a political and economic viewpoint at variance both with the Pitt-Burke radicals and the Tories. Yet, to anyone who wishes to understand the manner in which the American Revolution was viewed in England,

a conversance with Tucker's writings is quite *apropos*. Adam Smith must have been influenced by Tucker, for it is known that the former had in his library certain of Tucker's pamphlets relating to the unprofitable policy of maintaining a great colonial empire. Tucker opposed coercion of the rebellious colonials for reasons other than the sentimentalism of Burke; in fact, he had no love for those ungrateful enough to disavow English allegiance. Also, he was one of the first to oppose the mercantile system. In political philosophy, he found no truth in the Locke presumptions of consent of the governed, right of revolution, and popular sovereignty. Always the rank and file of the citizenry appeared to him as unfitted for the task of governing, and he was outspoken in his demands for strengthening the monarchy and aristocracy against this growing evil. The writings have been well edited and, in a short introduction, the compiler has interpreted the principal pamphlets. In bringing out these materials, a splendid service has been done for those students of political theory who are working on England and America of the eighteenth and nineteenth centuries. C. A. M. E.

Professor Walter G. Beach, like most observers of the modern world, is impressed with the rapidity of social change. In his book, *Social Aims in a Changing World* (Stanford University Press, 1932, pp. ix, 165), he notes the effect of this change upon human life and suggests a way of avoiding its undesirable consequences. He finds that the individualistic social order of America, which served well enough in a sparsely populated country with an abundance of land, is no longer satisfactory. The habit of exploiting nature, regarded as the right of every man, has been interpreted to mean the right to exploit human beings, now that the free land is gone and men must seek jobs to earn a living. As a result we have child labor, poverty, sickness, and war, at a time when our knowledge and equipment would permit the elimination of most of these evils. Professor Beach proposes as a remedy the rebuilding of society, substituting social values for individualistic values, so that the members of society will receive their satisfactions in the common good rather than in personal advantage. C. M. R.

John H. Wuorinen's *Nationalism in Finland* (New York: Columbia University Press, 1931, pp. vii, 302) is another of the Columbia University studies in nationalism. Tracing the development of the virus of Finnish nationalism, Wuorinen goes back to the early Swedish period and comes on down through the centuries with almost a lyric touch. The principal body of the work encompassed the Finland of the nineteenth century, with the recurring struggles and disputations between the Swecomen and Fennomen portions of the population, and the *fin-de-siecle* union or merging of these groups to prevent ultimate Russification. As in most fashionable modern states, language and education are attributed the leading roles in the development of the ideology of nationalism. It represents, either faithfully or otherwise, another presumption in the theory of the intellectual vacuum of the common man. The stuff of nationalism is injected into this void by the political pathologists, the patriot begins to mumble simple patriotic fetish-terms, and finally he springs to a dance around the totem pole of patriotism and wildly admonishes his fellows to immediate separatism. On the whole,

the work is done in a scholarly manner, the denoument interestingly depicted, and the interpretations based upon original documents in the archives of Sweden and Finland. C. A. M. E.

In Dr. Carl Brent Swisher's *Motivation and Political Technique in the California Constitutional Convention, 1878–79* (Claremont, California: Pomona College, 1930, pp. 132), an attempt is made to evaluate the forces that were responsible for the Constitution of California of 1878–79. As the editor, Professor Story, states in his Introduction, the field of motivation is an important key to an explanation of social and political phenomena; and hence, the constitutional history of any state needs to be viewed in this light. Though the difficulties of evaluating motives properly may be easily recognized, yet these difficulties are not insurmountable, and certain valuable conclusions may be drawn from an analysis, carefully made, of the data at hand. With this idea in mind, Dr. Swisher analyzes under the then prevailing economic and social conditions the background of the convention, the choice of delegates, and the great problems that faced the convention with their solution. Such a study is an interesting one and might well be pursued further by others with reference to other states. J. A. B.

Heller Committee for Research in the Social Economics, Cost of Living Studies IV: Spending Ways of a Semi-Skilled Group, a Study of the Incomes and Expenditures of Ninety-Eighth Street Car Men's Families in the San Francisco East Bay Region (University of California Press, 1931), is a study which holds the high standards of careful investigation and analysis set by former studies of this series. The group studied is predominantly American. It was found that, for the group as a whole, only 12.0 per cent of the income was derived from other sources than the work of men on street cars. The median income, $2059.79, was expended, 38.0 per cent for food, 10.6 per cent for clothing, and 17.6 per cent for housing. Of the remaining 30.0 per cent, 4.5 per cent was used for automobiles and 3.4 per cent for savings. The chief lack of the group, "aside from the inability to provide against death and old age, was the lack of medical care." "The birth of a baby in these families usually used a year's savings, and the smallest illness, especially of the breadwinner, left the family in debt for years." R. A. A.

This is the open season for the writing of prescriptions for the various ills of the world. In *The Way Forward* (New York: The Macmillan Company, 1932, pp. ix, 97), Robert S. Brookings suggests for capitalistic industry, national incorporation and a form of profit sharing with labor; for agriculture, greater mechanization combined with the domestic system; and for Europe, an economic union. As for Russia, he believes that the communists have not found satisfactory substitutes for the family, religion, and individual initiative. It is a sugar-coated capitalism that the author is prescribing. He leaves the great god, Capitalism, still entrenched, and he evidently believes that the human tendency toward religion can not be overcome, thus confusing, as he seems to do, an innate religious sense—if such really exists—with the maintenance of an overlapping, expensive, enormously wealthy, and unproductive set of religious organizations. C. T.

Tests and Challenges in Sociology (New York: The Century Company, 1931, pp. vi, 102), by Edward Allsworth Ross is made up of a series of questions intended for use by classes in sociology in connection with *Principles of Sociology* by the same author. The questions are grouped into chapters to accompany the corresponding divisions of the text. Appended is a short bibliography, to selections from which reference is frequently made in the questions. The volume should prove useful as an aid to the teacher of elementary sociology. C. M. R.

The Annals of Elder Horn (New York: Richard R. Smith, 1930, pp. viii, 225), is an arrangement of a diary and autobiographical material by John Wilson Bowyer and Claude Harrison Thurman. Elder Horn's life was that of the true pioneer of the Southwest during the last century. Springing from a grandfather born in North Carolina in the "Valley of Humility between two Mountains of Pride," Horn was swept by the spirit of education, religion, and adventure down through Tennessee and Kentucky to Texas in 1857. The diary and letters recount his experiences as soldier, college student, teacher, and preacher. M. P. D.

Geoffrey May's *Divorce Law in Maryland* (Baltimore: Johns Hopkins Press, 1932, pp. 53), is an interim report of the Institute of Law on this particular phase of Maryland law. Only a small segment in the larger study of the judicial systems of Maryland and Ohio, it is being separately published for purposes of criticism; at some future time the whole study will be drawn together. The study is divided into two general parts, one dealing with the history of legislative divorce practices in Maryland, and the other with the present law of divorce in Maryland. C. A. M. E.